

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**OSCAR M. GARCIA-RODRIGUEZ,**

*Plaintiff,*

v.

**WELLS FARGO BANK, N.A. and NAVY  
FEDERAL CREDIT UNION,**

*Defendants.*

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**CIVIL ACTION NO. \_\_\_\_\_**

**DEFENDANT WELLS FARGO BANK, N.A.’S NOTICE OF REMOVAL**

Defendant Wells Fargo Bank, N.A. (“Wells Fargo”), pursuant to 28 U.S.C. § 1332, removes the above-captioned civil action currently pending in the El Paso County Court at Law No. 6, El Paso, Texas, Cause No. 2022DCV3338 (the “State Court Action”), to the United States District Court for the Western District of Texas, El Paso Division.

**I. STATEMENT OF THE CASE**

1. On November 3, 2022, Plaintiff Oscar M. Garcia-Rodriguez (“Plaintiff”) filed the *Plaintiff’s Original Petition* (the “Complaint”) in the County Court at Law.<sup>1</sup> In his Complaint, Plaintiff asserts claims for breach of contract, monies due on a written debt, quantum meruit, promissory estoppel, conversion, appropriation by theft, fraud by misrepresentation and/or inducement, fraud by nondisclosure, negligence or gross negligence, breach of duty of good faith and fair dealing, unjust enrichment, and violation of the Texas Deceptive Trade Practices Act against Wells Fargo and Defendant Navy Federal Credit Union (“NFCU”) in connection with three alleged wire transfers originated at Wells Fargo and sent to an account at NFCU. Plaintiff seeks

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<sup>1</sup> A copy of the Complaint is attached as Exhibit 2.

actual damages in the amount of \$74,880.00, treble damages pursuant to the Texas Deceptive Trade Practices Act in the amount of \$224,640.00, plus additional attorneys' fees, pre-judgment interest, and post-judgment interest.<sup>2</sup>

## **II. TIMELINESS OF REMOVAL**

2. Wells Fargo was served with the Complaint on November 23, 2022, and thirty (30) days have not expired since service. Accordingly, this Notice of Removal is timely.<sup>3</sup>

## **III. VENUE**

3. Venue is proper in the United States District Court for the Western District of Texas, El Paso Division, because this district and division includes El Paso County, Texas – the location of the pending State Court Action.<sup>4</sup>

## **IV. BASIS FOR REMOVAL: DIVERSITY JURISDICTION**

### **A. The Parties are Citizens of Different States.**

4. There is complete diversity of citizenship between Plaintiff and Defendants Wells Fargo and NFCU.<sup>5</sup>

5. Plaintiff is a citizen of the State of Texas because he is domiciled here.<sup>6</sup>

6. Wells Fargo is a national banking association organized under the laws of the United States. It is a citizen of South Dakota because its articles of association establish that location as its main office. *See* 28 U.S.C. § 1348; *Wachovia Bank v. Schmidt*, 126 S. Ct. 941, 945

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<sup>2</sup> *Id.* at ¶¶ 2, 13.

<sup>3</sup> *See* 28 U.S.C. § 1446(b) (“The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.”).

<sup>4</sup> *See* 28 U.S.C. § 1441(a); 28 U.S.C. § 124(a)(2).

<sup>5</sup> 28 U.S.C. § 1332(a); *Carden v. Arkoma Assocs.*, 494 U.S. 185, 187 (1990) (diversity jurisdiction requires that no plaintiff is from the same state as any defendant); *Strawbridge v. Curtiss*, 7 U.S. 267, 2 L. Ed. 435 (1806).

<sup>6</sup> Exhibit 2, ¶ 5.

(U.S. 2006) (“[A] national bank, for § 1348 purposes, is a citizen of the State in which its main office, as set forth in its articles of association, is located.”); *see also McKenna v. Wells Fargo Bank, N.A.*, 693 F.3d 207, 212 (1st Cir. 2012) (“Wells Fargo is a citizen of South Dakota for diversity purposes.”); *Hargrow v. Wells Fargo Bank, N.A.*, 491 Fed. App’x 534, 536 (6th Cir. 2012) (same).

7. NFCU is a nationally chartered credit union headquartered in Virginia, with its principal place of business located in Vienna, Virginia. The State Court Action docket reflects that NFCU has not been served.

8. Because Plaintiff is a citizen of Texas (and not South Dakota or Virginia) and neither Wells Fargo nor NFCU is a citizen of Texas, complete diversity exists.

**B. The Amount in Controversy Exceeds \$75,000.**

9. In order to establish diversity jurisdiction, the amount in controversy must exceed \$75,000.<sup>7</sup> On its face, Plaintiff’s Complaint shows that it seeks damages of \$299,520.00, plus attorney’s fees, well above the \$75,000 threshold.<sup>8</sup> Therefore, the amount in controversy minimum is satisfied.

**V. PROCEDURAL REQUIREMENTS HAVE BEEN SATISFIED**

10. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served in the County Court action are attached hereto as **Exhibit 1** through **Exhibit 9**.

11. Pursuant to 28 U.S.C. § 1446(d), promptly after filing this Notice of Removal, Wells Fargo is providing Plaintiff, through counsel, with written notice of removal and a copy of this Notice of Removal is being filed with the County Court at Law No. 6 of El Paso County, Texas.

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<sup>7</sup> 28 U.S.C. § 1332(a).

<sup>8</sup> Ex. 2, ¶ 2.

## VI. CONCLUSION

The Court may exercise original jurisdiction over this action because complete diversity exists between Plaintiff and Defendants, and the amount in controversy exceeds \$75,000.

Dated: December 16, 2022

Respectfully submitted,

/s/ Justin Opitz

**Justin Opitz**

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**MCGUIREWOODS LLP**

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Dallas, Texas 75201

Telephone: 214.932.6400

Facsimile: 214.932.6499

**ATTORNEYS FOR DEFENDANT  
WELLS FARGO BANK, N.A.**

## CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2022, a true and correct copy of the foregoing was served via ECF as follows:

Michael R. Nevarez

[mnevarez@lawofficesmrn.com](mailto:mnevarez@lawofficesmrn.com)

The Nevarez Law Firm, PC

7362 Remcon Circle

El Paso, Texas 79912

Phone: 915-225-2255

Fax: 915-845-3405

***Attorney for Plaintiff***

/s/ Justin Opitz

**Justin Opitz**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**OSCAR M. GARCIA-RODRIGUEZ,**

*Plaintiff,*

v.

**WELLS FARGO BANK, N.A. and NAVY  
FEDERAL CREDIT UNION,**

*Defendants.*

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**CIVIL ACTION NO. \_\_\_\_\_**

**EXHIBIT INDEX**

<b>EXHIBIT</b>	<b>DESCRIPTION</b>
1.	Docket Sheet
2.	Plaintiff's Original Petition
3.	Request for Citations
4.	Citation to Wells Fargo
5.	Citation to NFCU
6.	Citation to NFCU
7.	Citation to NFCU
8.	Citation to Wells Fargo
9.	Citation to Wells Fargo
10.	Notice of Service for Wells Fargo
11.	Counsel of Record

# EXHIBIT 1

**REGISTER OF ACTIONS****CASE No. 2022DCV3338****Oscar Garcia-Rodriguez vs Wells Fargo Bank, N.A., and Navy Federal Credit Union**§  
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§Case Type: **Other Contract**Date Filed: **11/03/2022**Location: **County Court at Law 6**

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**PARTY INFORMATION**

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<b>Defendant</b>	<b>Navy Federal Credit Union</b>	<b>Lead Attorneys</b>
<b>Defendant</b>	<b>Wells Fargo Bank, N.A.</b>	
<b>Plaintiff</b>	<b>Garcia-Rodriguez, Oscar M.</b>	<b>MICHAEL R NEVAREZ</b> <i>Retained</i> 915-225-2255(W)

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**EVENTS & ORDERS OF THE COURT**

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	<b>OTHER EVENTS AND HEARINGS</b>	
11/03/2022	<b>Original Petition (OCA)</b>	<b>Index # 1</b>
11/03/2022	<b>E-File Event Original Filing</b>	
11/08/2022	<b>Request</b>	<b>Index # 2</b>
11/10/2022	<b>Citation</b>	
	Navy Federal Credit Union	Unserved
11/10/2022	<b>Citation</b>	
	Navy Federal Credit Union	Unserved
11/10/2022	<b>Citation</b>	
	Navy Federal Credit Union	Unserved
11/10/2022	<b>Citation</b>	
	Wells Fargo Bank, N.A.	Unserved
11/10/2022	<b>Citation</b>	
	Wells Fargo Bank, N.A.	Unserved
11/10/2022	<b>Citation</b>	
	Wells Fargo Bank, N.A.	Unserved

# EXHIBIT 2



OSCAR M. GARCIA-RODRIGUEZ,  
  
Plaintiff,  
  
v.  
  
WELLS FARGO BANK, N.A. and,  
NAVY FERDERAL CREDIT UNION,  
  
Defendants.

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CASE NUMBER: \_\_\_\_\_

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PLAINTIFF’S ORIGINAL PETITION

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TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW OSCAR M. GARCIA-RODRIGUEZ (“Plaintiff” and/or “GARCIA”), by and through the undersigned counsel, and hereby files this “Plaintiff’s Original Petition” (“Petition”) against Defendants WELLS FARGO BANK, N.A. (“WELLS FARGO”) and NAVY FEDERAL CREDIT UNION (“NFCU”) (collectively “Defendants”) (with Plaintiff and Defendants hereinafter jointly referred to as the “Parties”), and would respectfully show the Court as follows:

I. INTRODUCTION.

1. This is a cause of action by Plaintiff, against WELLS FARGO and NFCU, as jointly and severally liable, for (a) Action for Breach of Contract; (b) Action for Monies Due on a Written Debt; (c) Action for Money Had and Received; (d) Action for *Quantum Meruit*; (e) Action for Promissory Estoppel As A Claim; (f) Action for Appropriation by Theft; (g) Action for Conversion, (h) Action for Fraud by Misrepresentation and/or Inducement; (i) Action for Fraud by Nondisclosure; (j) Action for Negligence and/or Gross Negligence; (k) Action for

Breach of Duty of Good Faith and Fair Dealing; (l) Action for Unjust Enrichment, and (m) Action for Texas Deceptive Trade Practices Act.

2. Plaintiff seeks actual damages in the amount of **\$4,880.00**, and treble damages pursuant to the Texas Deceptive Trade Practices in the amount of **\$224,640.00**, for a total claim amount of **\$299,520.00**, plus costs of court, attorney fees, pre-judgment interest, and post-judgment interest.

## **II. DISCOVERY.**

3. Discovery is intended to be conducted under Level 2 of Texas Rule of Civil Procedure 190.2. Plaintiff affirmatively pleads that this suit is governed by the expedited-actions process in Texas Rule of Civil Procedure 169(d).

## **III. CLAIM FOR RELIEF.**

4. Plaintiff seeks monetary relief of only \$250,000.00 or less, excluding attorney fees, pre-judgment interest, post-judgment interest, statutory or punitive damages and penalties, and as may be awarded by the trier of fact. Tex. R. Civ. P. 47(c)(1).

## **IV. THE PARTIES AND SERVICE.**

5. Plaintiff OSCAR M. GARCIA-RODRIGUEZ, is a resident under the laws of the State of Texas.

6. Upon information and belief, Defendant WELLS FARGO BANK, N.A. is a foreign financial institution chartered as a National Banking Association by the Comptroller of Currency, United States of America, and authorized to do business under the laws of the State of Texas, and may be served with process by serving (a) its General Manager at its local branch located at 6110 N Mesa Street, El Paso, TX, or (b) its registered agent for service of process, Corporation Service Company, at 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218, or (c)

at Defendant's main office located at Wells Fargo Bank, N.A., 420 Montgomery St., San Francisco, CA 94163, or wherever said Defendant may be found.

7. Upon information and belief, Defendant NAVY FEDERAL CREDIT UNION. is a foreign not-for-profit nonstock credit union engaged in the business of banking in the State of Texas, and authorized to do business under the laws of the State of Texas, and may be served with process by serving (a) its General Manager at its local branch located at 6450 N Desert Blvd, Unit D101, El Paso, TX, or (b) its registered agent for service of process, Corporation Service Company, at 100 Shockoe Slip FL 2, Richmond, VA 23219-4100, or (c) at Defendant's main office located at Navy Federal Credit Union, 820 Follin Lane, Vienna, VA 22180-4907, or wherever said Defendant may be found.

#### **V. JURISDICTION AND VENUE.**

8. This Court has jurisdiction over these claims and controversy because the subject matter is not within the exclusive original jurisdiction of some other court or administrative body, and the amount in controversy exceeds the minimum jurisdictional amount.

9. This Court has jurisdiction over the controversy as Defendants do business in El Paso County, Texas, and the facts and events giving rise to this cause of action took place in El Paso County, Texas.

10. Venue is proper in this Court pursuant to Tex. Civ. Prac. & Rem. Code Ann. §§ 15.002, 15.004, 15.006, and 15.035.

#### **VI. FACTUAL BACKGROUND.**

11. At all times relevant herein, GARCIA maintained a checking account ending number 0329 with WELLS FARGO through various branches in the State of Texas, and no one else was authorized on said account.

12. At all times relevant herein, GARCIA had online banking access for said WELLS FARGO checking account ending number 0329, and no one else (a) was authorized to have online banking access for said WELLS FARGO account, or (b) knew the username and password for said online WELLS FARGO account.

13. Unknown to GARCIA, and without GARCIA's authorization, WELLS FARGO made three (3) unauthorized fraudulent wire transfers to NFCU in the total amount of **\$74,880.00**.

14. Accordingly, in February of 2022, GARCIA notified WELLS FARGO of the three (3) unauthorized fraudulent wire transfers in the total amount of **\$74,880.00**, that were withdrawn from GARCIA's checking account number XXXXXX0329.

15. The three (3) unauthorized fraudulent wire transfers are as follows:

- a. 02/15/2022 – Wire Transfer to NFCU in the amount of \$24,900.00, TRN#220215205991
- b. 02/16/2022 – Wire Transfer to NFCU in the amount of \$24,990.00, TRN#220216084038
- c. 02/17/2022 – Wire Transfer to NFCU in the amount of \$24,990.00, TRN#220217068633

16. GARCIA subsequently received a letter from WELLS FARGO dated March 22, 2022, stating that a wire recall was initiated by WELLS FARGO to attempt recovery of the funds from NFCU, and that WELLS FARGO was unsuccessful due to the NFCU not having the funds available for return. Said letter also stated that WELLS FARGO was unable to reimburse GARCIA the **\$74,880** and had closed out GARCIA's Claim #2022021700810. (See Exhibit A attached hereto).

17. On July 7, 2022, GARCIA sent a Demand Letter to WELLS FARGO and NFCU, demanding payment of the three (3) unauthorized fraudulent wire transfers totaling **\$74,880** due

GARCIA, within ten (10) days of WELLS FARGO and NFCU's receipt of the Demand Letter. Said Demand Letter also provided WELLS FARGO and NFCU sixty (60) days from the date of receipt of the Demand Letter to reimburse GARCIA for the damages incurred by GARCIA, and caused by WELLS FARGO and NFCU. (See Exhibit B attached hereto).

18. Although the Demand Letters were received by WELLS FARGO and NFCU on July 8<sup>th</sup>, 9<sup>th</sup>, and 11<sup>th</sup>, 2022. (See Exhibits C and D attached hereto).

19. However, no response to the Demand Letter was received from WELLS FARGO, while Attorney Elizabeth Philips of the NFCU replied that they were unwilling to pay the **\$74,880** due GARCIA, during a telephone discussion with the undersigned counsel on August 18, 2022.

20. As a result of WELLS FARGO and NFCU's failure and/or refusal to pay to GARCIA the total payment of **\$74,880**, GARCIA has suffered the following actual damages and costs:

- a. Actual damages of **\$74,880**; and,
- b. Attorney's fees and costs to prepare the Demand Letter, and prosecute this cause of action.

21. Accordingly, GARCIA has suffered a total of **\$74,880.00**, not including interest, attorney's fees and costs, or other damages, as a result of WELLS FARGO and NFCU's failure and/or refusal to reimburse GARCIA his outstanding checking account balance of **\$74,880.00**.

22. Furthermore, because WELLS FARGO and NFCU's breached and failed and/or refused to comply with its express and/or implied AGREEMENT and/or CONTRACT, as federally-insured financial institutions, that they would retain, protect, return and reimburse GARCIA the total amount of the funds in GARCIA's checking account, upon request and demand, Defendants thereby engaged in an unconscionable act and/or course of action, through

the use and/or employment of false, misleading, or deceptive acts and/or practices, and misrepresentations, that GARCIA reasonably and justifiably relied upon to his detriment. Therefore, in accordance with the Deceptive Trade Practices–Consumer Protection Act (DTPA), pursuant to Texas Business & Commerce Code Chapter 17, "Deceptive Trade Practices", Defendants are liable for treble damages under the DTPA.

23. Therefore, GARCIA hereby claims DTPA treble damages in the total amount of **\$224,640.00, which is three (3) times the \$74,880.00 total due GARCIA**, thereby raising the total amount of the claim herein to **\$299,520.00**, not including interest, attorney's fees and costs, or other damages. (See Exhibit E attached hereto).

24. The Defendants herein are jointly and severally liable, because at all relevant times herein, each of the Defendants herein operated their businesses unlawfully, and in conspiracy with each other, in order to perpetrate an actual or constructive fraud upon the Plaintiff, for the direct personal benefit of said Defendants.

## **VII. CAUSES OF ACTION.**

### **A. Action for Breach of Contract.**

25. GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Breach of Contract, against WELLS FARGO, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

### **B. Action for Monies Due on a Written Debt.**

26. In the alternative, and in addition to the foregoing cause(s) of action, GARCIA re-

alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Monies Due on a Written Debt, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**C. Action for Money Had and Received.**

27. In the alternative, and in addition to the foregoing cause(s) of action, GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Money Had and Received, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**D. Action for Quantum Meruit.**

28. In the alternative, and in addition to the foregoing cause(s) of action, GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Quantum Meruit, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**E. Action for Promissory Estoppel As A Claim.**

29. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Promissory Estoppel as a Claim, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**F. Action for Conversion.**

30. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Conversion, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**G. Action for Appropriation by Theft.**

31. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Appropriation by Theft, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.



**H. Action for Fraud by Misrepresentation and/or Inducement.**

32. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Fraud by Misrepresentation and/or Inducement, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**I. Action for Fraud by Nondisclosure.**

33. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Fraud by Nondisclosure, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**J. Action for Negligence and/or Gross Negligence.**

34. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Negligence and/or Gross Negligence, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by

Defendants.

**K. Action for Breach of Duty of Good Faith and Fair Dealing.**

35. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Breach of Duty of Good Faith and Fair Dealing, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**L. Action for Unjust Enrichment.**

36. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Unjust Enrichment, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**M. Action For Texas Deceptive Trade Practices.**

37. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for violation of the Deceptive Trade Practices–Consumer Protection Act (DTPA), pursuant to Texas Business & Commerce Code Chapter 17, "Deceptive Trade Practices", against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, and hereby

requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by said Defendants.

**VIII. CONDITIONS PRECEDENT.**

38. All conditions precedent have been performed or have occurred.

**IX. NO FEDERAL CLAIMS.**

39. Plaintiff does not assert any claim in this Petition under Federal common law, or any Federal rule, regulation, or statute, or any other Federal law.

**X. PRAYER FOR RELIEF.**

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff OSCAR M. GARCIA-RODRIGUEZ herein requests and prays that Defendants WELLS FARGO BANK, N.A. and NAVY FEDERAL CREDIT UNION be cited to appear and answer herein, and that after final trial on this matter, GARCIA be awarded the following upon entry of Judgment against Defendants WELLS FARGO BANK, N.A. and NAVY FEDERAL CREDIT UNION, with said Defendants held jointly and severally liable for the following:

- a. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as actual and/or compensatory damages for the actual economic or pecuniary loss, pursuant to Chapter 41 of the Texas Civil Practice & Remedies Code, “Damages”;
- b. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as Exemplary Damages, in accordance with (i) the Texas Civil Practice and Remedies Code Chapter 41, “Damages”, and (ii) the Texas Business & Commerce Code Chapter 27, “Fraud”;
- c. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as Damages, in accordance with Chapter 134 of the Texas Civil Practice & Remedies Code, “Texas Theft Liability Act”;

- d. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as Treble Damages, in accordance with the Texas Deceptive Trade Practices (“DTPA”), and the common law of the State of Texas;
- e. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as noneconomic Punitive Damages, pursuant to the common law of the State of Texas;
- f. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as Special Damages, under the common law of the State of Texas;
- g. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as Unliquidated Damages, under the common law of the State of Texas;
- h. Payment, by Defendants to GARCIA, of all reasonable and necessary attorney’s fees incurred to date, as well as all costs incurred to date, in accordance with (i) the Texas Civil Practice & Remedies Code Chapter 38, “Attorney’s Fees”, (ii) the Texas Civil Practice and Remedies Code Chapter 134, “Texas Theft Liability Damages”, (iii) the Texas Business & Commerce Code Chapter 27, “Fraud”, (iv) the Texas Deceptive Trade Practices (“DTPA”), and (v) the Texas Civil Practice & Remedies Code Chapter 37, “Declaratory Judgments”;
- i. Payment, by Defendants to GARCIA, of pre-judgment interest, calculated on an annual basis on the total judgment herein, from the date of judgment herein until fully paid, at the highest legal or contractual rate allowed by law;
- j. Payment, by Defendants to GARCIA, of post-judgment interest, calculated on an annual basis on the total judgment herein, from the date of judgment until fully paid, at the highest legal or contractual rate allowed by law;
- k. Payment, by Defendants to GARCIA, of **\$12,500** for the time (approximately 50 hours) that would be incurred in making or responding to an appeal, or an application for writ of error to the court of appeals, and arguing such an appeal, provided that if Defendants do not appeal this judgment to the court of appeals, and time for appeal to that court has expired, Defendants shall be entitled to a remittitur of **\$12,500** against this judgment for said attorney’s fees;
- l. Payment, by Defendants to GARCIA, of **\$12,500** for the time (approximately 50 hours) that would be incurred in making or responding to an appeal or an application for writ of error to the Supreme Court of the

State of Texas, provided that if Defendants do not appeal from the court of appeals to the Supreme Court of the State of Texas, and time for that appeal has expired, Defendants shall be entitled to a remittitur of **\$12,500** against this judgment for said attorney's fees;

- m. Payment, by Defendants to GARCIA, of **\$12,500** for the time (approximately 50 hours) that would be incurred if any such application for writ of error were granted, and oral argument had to be made before the Supreme Court of the State of Texas, provided that if Defendants do not appeal from the court of appeals to the Supreme Court of the State of Texas, and time for that appeal has expired, Defendants shall be entitled to a remittitur of **\$12,500** against this judgment for said attorney's fees;
- n. Payment, by Defendants to GARCIA, of **\$12,500** for the time (approximately 50 hours) that necessarily would be incurred in post-judgment collection;
- o. Issuance of all writs of execution and other process necessary to enforce this judgment, including but not limited to attachment, sequestration, garnishment, liens, receivership, and/or injunction;
- p. Issuance of a permanent mandatory injunction forever compelling Defendants, as well as its officers, agents, servants, employees, attorneys, representatives, and subsidiaries, to deliver, to GARCIA, title to real property lots equal in value to the Total Amount Due, and awarding all other relief to which GARCIA is entitled, whether pled or unpled; and,
- q. Any and all other further relief, both at law and in equity, the Court deems appropriate, whether pled or unpled.

November 3, 2022

Respectfully submitted,

**THE NEVAREZ LAW FIRM, PC**  
Attorneys And Counselors At Law  
7362 Remcon Circle  
El Paso, Texas 79912  
Telephone: (915) 225-2255  
Facsimiles: (915) 845-3405  
Email: [MNevarez@LawOfficesMRN.com](mailto:MNevarez@LawOfficesMRN.com)  
/s/ Michael R. Nevarez  
By: **MICHAEL R. NEVAREZ**  
State of Texas Bar No. 14933400

Attorney for Plaintiff  
Oscar M. Garcia-Rodriguez


STATE OF TEXAS )

COUNTY OF EL PASO )

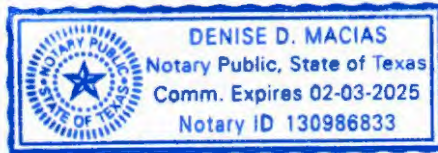
**AFFIDAVIT OF VERIFICATION**


Before me, the undersigned authority, personally appeared Oscar M. Garcia-Rodriguez, who swore on oath that the following facts are true and correct:

"My name is, and I am the Plaintiff in the foregoing cause of action. I am over the age of 18 and currently dwelling in the State of Texas. I am of sound mind and capable of understanding and making this affidavit. I have read the foregoing Plaintiffs' Original Petition, and have personal knowledge of all of the facts and contentions stated therein, and do hereby verify that all of the facts and contentions stated therein are true and correct, and, if called as a witness, could appear and testify competently thereto."

  
Oscar M. Garcia-Rodriguez, Affiant

SIGNED under oath before me, an officer authorized to administer oaths, on this the 3RD of November, 2022.



(SEAL)  
  
Notary Public, State of Texas  
Name: Denise D Macias

My Commission Expires:  
02/03/2025



**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Michael Nevarez  
Bar No. 14933400  
MRN@MRN4Law.com  
Envelope ID: 69860952  
Status as of 11/8/2022 8:26 AM MST

## Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Michael Nevarez	14933400	mrn@mrn4law.com	11/3/2022 2:48:50 PM	SENT
Denise Macias		paralegal-2@lawofficesmrn.com	11/3/2022 2:48:50 PM	SENT
Denise Macias		paralegal-2@lawofficesmrn.com	11/3/2022 2:48:50 PM	SENT



Claims Assistance Center  
ACH/Check Fraud  
MAC D1118-02F  
12301 Vance Davis Dr. Floor 02  
Charlotte, NC 28269-7699

wellsfargo.com

March 22, 2022

OSCAR M GARCIA-RODRIGUEZ  
11121 PINK CORAL DR  
EL PASO TX 79936-3005

Subject: Resolution of online wire inquiry for Checking account ending 0329  
Claim #: 2022021700810

Dear OSCAR M GARCIA-RODRIGUEZ:

We've completed our research of your inquiry about (3) three disputed wire transfer requests initiated through online banking totaling \$ \$74,880.00 sent between 02/15/2022 and 02/17/2022. We found the wire transfers were requested through an online banking session using your username and password. After reviewing all the information available to us regarding the disputed transaction, we've determined that you or someone who had your authorization performed the transaction.

As a courtesy, we initiated a wire recall on your behalf to attempt recovery of the funds. Unfortunately, the beneficiary bank responded that there were no funds available to return. As a result, we are unable to reimburse you and have closed your claim.

For more information to help protect against fraud, please visit:  
<https://www.wellsfargo.com/privacy-security/fraud>

If you have questions, please call us at 1-877-548-9230, Monday through Friday, 7:00 a.m. to midnight, or Saturday, 8:00 a.m. to 8:00 p.m. Eastern Time. For customers with hearing or speech disabilities, we accept telecommunications relay service calls.

Thank you. We appreciate your business.

Sincerely,

Claims Assistance Center/Check Fraud Claims





**THE NEVAREZ LAW FIRM, PC**  
**ATTORNEYS AND COUNSELORS AT LAW**  
**7362 REMCON CIRCLE, EL PASO, TEXAS 79912**  
**TELEPHONE: (915) 225-2255**  
**FACSIMILES: (915) 845-3405**  
**WEBSITE: NEVAREZLAWFIRM.COM**

---

July 7, 2022

***Via USPS Priority Mail:***

Wells Fargo Bank  
Claims Assistance Center  
1530 N. Lee Trevino Dr.  
El Paso, TX 79936

Wells Fargo Bank, N.A.  
c/o Corporation Service Company  
211 E. 7th Street, Suite 620  
Austin, TX 78701-3218

Wells Fargo Bank  
Claims Assistance Center  
ACH/Check Fraud – MAC D1118-02F  
12301 Vance Davis Dr. Floor 02  
Charlotte, NC 28269-7699

***Via USPS Priority Mail:***

Navy Federal Credit Union  
820 Follin Lane SE  
Vienna, VA 22180-4907

Navy Federal Credit Union  
c/o Corporation Service Company  
100 Shockoe Slip Fl 2  
Richmond, VA 23219-4100

Re: Demand Letter to Wells Fargo and Navy Federal Credit Union  
Fraudulent Wire Transfers; Claim # 2022021700810

To Whom It May Concern:

I represent Mr. Oscar M. Garcia - Rodriguez (hereinafter referred to as "Client"). In February 2022, my Client notified Wells Fargo Bank of (3) three fraudulent wire transfers in the total amount of **\$74,880.00**, that were withdrawn from my Client's checking account number XXXXXX0329. The (3) three fraudulent wire transfers are as follows:

- |               |  |             |
|---------------|--|-------------|
| 1. 02/15/2022 | Wire Transfer to Navy Federal Credit Union<br>TRN#220215205991 | \$24,900.00 |
| 2. 02/16/2022 | Wire Transfer to Navy Federal Credit Union<br>TRN#220216084038 | \$24,990.00 |

3. 02/17/2022	Wire Transfer to Navy Federal Credit Union	<u>\$24,990.00</u>
	TRN#220217068633	

<b>TOTAL</b>	<b>\$74,880.00</b>
--------------	--------------------

My Client subsequently received a letter from Wells Fargo Bank dated March 22, 2022, stating that a wire recall was initiated by Wells Fargo Bank to attempt recovery of the funds, and that Wells Fargo Bank was unsuccessful due to the Navy Federal Credit Union not having the funds available for return. Said letter then stated that Wells Fargo was unable to reimburse my Client the **\$74,880** and had closed out my Client's Claim.

The foregoing three (3) wire transfers constitutes ACH fraud that would have been avoided had Wells Fargo Bank and the Navy Federal Credit Union exercised ordinary care. As such, Wells Fargo Bank and the Navy Federal Credit Union were in the best position to prevent the fraud, and therefore my Client's losses attributable to said fraud should be borne by Wells Fargo Bank and the Navy Federal Credit Union.

As a result of the three (3) fraudulent wire transfers, my Client has been financially and economically damaged in the amount of **\$74,880**. In addition, my Client had to incur the additional cost of Five Hundred Dollars (**\$500.00**), as attorney's fees and costs necessary to prepare this Demand Letter. My Client's damages thus far are in the amount of approximately **\$75,380.00**.

Therefore, on behalf of my Client, I hereby demand that, within ten (10) days of your receipt of this Demand Letter, you make payment to my Client, in the amount of **\$75,380.00**. Please contact me as soon as possible so that I can provide you with the necessary paperwork, and arrange for immediate payment of the **\$75,380.00** to my Client. You may also contact me to propose an alternate schedule to deliver the payment, within ten (10) days of your receipt of this Demand Letter.

Your failure to comply with the foregoing demands, within ten (10) days of your receipt of this Demand Letter, will result in the filing of a lawsuit, against you, seeking payment for the above-described amount owed to my Client. Under Texas law, in the event I am forced to file a lawsuit to recover my Client's damages, my Client would be entitled to recover his damages, plus interest and attorney's fees and costs, in addition to the exemplary damages resulting from your actions.

Additionally, if you do not pay the above-described amount to my Client, within sixty (60) days from the date of your receipt of this Demand Letter, the lawsuit filed against you will be amended to include an additional count for your violation of the Deceptive Trade Practices-Consumer Protection Act (DTPA), under Texas Business & Commerce Code Section 17.41 *et. seq.* Under the DTPA, my Client would be entitled to treble damages, thus increasing the amount owed by **\$226,140.00**, for a new total of **\$301,520.00**, not including interest, or attorney's fees and costs.

You should understand that I will make every effort to recover my Client's damages, so you must deal with this situation now. You should also understand that, under Texas law,

interest, attorney's fees and costs will accrue through litigation, and until final payment of all damages. Therefore, please contact me immediately on receipt of this Demand Letter to achieve an amicable and expeditious resolution of this matter, and thereby minimize the attorney's fees and costs.

If you have any questions or comments, please do not hesitate to contact me immediately.

Sincerely,

*Michael R. Nevarez*

Michael R. Nevarez, Esq.

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Tracking Number: 9405511108033883117493

Remove X

Your item was delivered to the front desk, reception area, or mail room at 11:54 am on July 8, 2022 in EL PASO, TX 79936.

USPS Tracking Plus® Available ∨

✓ Delivered, Front Desk/Reception/Mail Room

July 8, 2022 at 11:54 am  
EL PASO, TX 79936

Get Updates ∨

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Tracking History



July 8, 2022, 11:54 am  
Delivered, Front Desk/Reception/Mail Room  
EL PASO, TX 79936  
Your item was delivered to the front desk, reception area, or mail room at 11:54 am on July 8, 2022 in EL PASO, TX 79936.

July 8, 2022, 6:10 am  
Out for Delivery  
EL PASO, TX 79936

Feedback

July 8, 2022, 2:06 am  
Arrived at USPS Facility  
EL PASO, TX 79925

July 8, 2022, 1:21 am  
In Transit to Next Facility

July 8, 2022, 1:01 am  
Departed USPS Regional Facility  
EL PASO TX DISTRIBUTION CENTER

July 7, 2022, 8:27 pm  
Arrived at USPS Regional Facility  
EL PASO TX DISTRIBUTION CENTER

July 7, 2022, 7:12 pm  
Accepted at USPS Origin Facility  
EL PASO, TX 79912

July 7, 2022, 4:25 pm  
Shipping Label Created, USPS Awaiting Item  
EL PASO, TX 79912

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Product Information



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Go to our FAQs section to find answers to your tracking questions.

Feedback

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Tracking Number: 9405511108033883147223

Remove X

Your item was delivered in or at the mailbox at 10:20 am on July 9, 2022 in AUSTIN, TX 78701.

USPS Tracking Plus® Available ∨

✓ Delivered, In/At Mailbox

July 9, 2022 at 10:20 am  
AUSTIN, TX 78701

Get Updates ∨

Text & Email Updates ∨

Tracking History ^

July 9, 2022, 10:20 am  
Delivered, In/At Mailbox  
AUSTIN, TX 78701  
Your item was delivered in or at the mailbox at 10:20 am on July 9, 2022 in AUSTIN, TX 78701.

July 9, 2022, 7:35 am  
Out for Delivery  
AUSTIN, TX 78701

July 9, 2022, 7:24 am

Feedback

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**July 8, 2022, 11:09 pm**

Arrived at USPS Regional Facility  
AUSTIN TX DISTRIBUTION CENTER

---

**July 8, 2022, 9:14 pm**

Departed USPS Regional Facility  
AUSTIN TX PACKAGE SORTING CENTER

---

**July 8, 2022, 8:30 pm**

Arrived at USPS Regional Facility  
AUSTIN TX PACKAGE SORTING CENTER

---

**July 8, 2022, 7:08 pm**

Arrived at USPS Regional Facility  
AUSTIN TX DISTRIBUTION CENTER

---

**July 8, 2022, 5:57 pm**

In Transit to Next Facility

---

**July 8, 2022, 5:22 pm**

Departed USPS Regional Facility  
SAN ANTONIO TX DISTRIBUTION CENTER

---

**July 8, 2022, 4:09 pm**

Arrived at USPS Regional Facility  
SAN ANTONIO TX DISTRIBUTION CENTER

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**July 8, 2022, 12:07 pm**

In Transit to Next Facility

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**July 8, 2022, 8:37 am**

In Transit to Next Facility

---

**July 8, 2022, 4:36 am**

Departed USPS Regional Facility  
EL PASO TX DISTRIBUTION CENTER

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**July 7, 2022, 8:27 pm**

Feedback



July 7, 2022, 7:12 pm  
Accepted at USPS Origin Facility  
EL PASO, TX 79912

July 7, 2022, 4:27 pm  
Shipping Label Created, USPS Awaiting Item  
EL PASO, TX 79912

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Product Information



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Tracking Number: 9405511108033883176537

[Remove X](#)

Your item was delivered to an individual at the address at 2:45 pm on July 11, 2022 in CHARLOTTE, NC 28269.

USPS Tracking Plus® Available ▾

 **Delivered, Left with Individual**

July 11, 2022 at 2:45 pm  
CHARLOTTE, NC 28269

Get Updates ▾

Text & Email Updates		▾
Tracking History		▴
July 11, 2022, 2:45 pm		
Delivered, Left with Individual		
CHARLOTTE, NC 28269		
Your item was delivered to an individual at the address at 2:45 pm on July 11, 2022 in CHARLOTTE, NC 28269.		
July 9, 2022, 2:46 pm		
Redelivery Scheduled for Next Business Day		
CHARLOTTE, NC 28269		

Feedback

**July 9, 2022, 7:32 am**  
Out for Delivery  
CHARLOTTE, NC 28269

---

**July 9, 2022, 7:21 am**  
Arrived at Post Office  
CHARLOTTE, NC 28269

---

**July 9, 2022, 12:05 am**  
Arrived at USPS Regional Destination Facility  
MID CAROLINA NC PACKAGE SORTING CENTER

---

**July 8, 2022**  
In Transit to Next Facility

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**July 7, 2022, 8:27 pm**  
Arrived at USPS Regional Origin Facility  
EL PASO TX DISTRIBUTION CENTER

---

**July 7, 2022, 7:12 pm**  
Accepted at USPS Origin Facility  
EL PASO, TX 79912

---

**July 7, 2022, 4:30 pm**  
Shipping Label Created, USPS Awaiting Item  
EL PASO, TX 79912

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**USPS Tracking Plus®**



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**Product Information**



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**See Less**

Feedback

# Can't find what you're looking for?

Case 3:22-cv-00465-DCG Document 1 Filed 12/16/22 Page 36 of 114

Go to our FAQs section to find answers to your tracking questions.

## FAQs

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Tracking Number: 9405511108033883197006

Remove X

Your item was delivered to the front desk, reception area, or mail room at 1:30 pm on July 9, 2022 in VIENNA, VA 22180.

USPS Tracking Plus® Available ∨

✓ Delivered, Front Desk/Reception/Mail Room

July 9, 2022 at 1:30 pm  
VIENNA, VA 22180

Get Updates ∨

Text & Email Updates



Tracking History



July 9, 2022, 1:30 pm

Delivered, Front Desk/Reception/Mail Room  
VIENNA, VA 22180

Your item was delivered to the front desk, reception area, or mail room at 1:30 pm on July 9, 2022 in VIENNA, VA 22180.

July 9, 2022, 12:58 pm

Arrived at Post Office  
VIENNA, VA 22180

Feedback

**July 9, 2022, 6:37 am**

Departed USPS Regional Destination Facility  
MERRIFIELD VA DISTRIBUTION CENTER

---

**July 9, 2022, 6:04 am**

Arrived at USPS Regional Facility  
MERRIFIELD VA DISTRIBUTION CENTER

---

**July 9, 2022, 5:27 am**

Departed USPS Regional Facility  
DULLES VA DISTRIBUTION CENTER

---

**July 9, 2022, 4:12 am**

Arrived at USPS Regional Destination Facility  
DULLES VA DISTRIBUTION CENTER

---

**July 8, 2022**

In Transit to Next Facility

---

**July 7, 2022, 11:15 pm**

Departed USPS Regional Facility  
EL PASO TX DISTRIBUTION CENTER

---

**July 7, 2022, 8:27 pm**

Arrived at USPS Regional Origin Facility  
EL PASO TX DISTRIBUTION CENTER

---

**July 7, 2022, 7:12 pm**

Accepted at USPS Origin Facility  
EL PASO, TX 79912

---

**July 7, 2022, 4:32 pm**

Shipping Label Created, USPS Awaiting Item  
EL PASO, TX 79912

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Product Information



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See Less 

## Can't find what you're looking for?

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**FAQs**

Track Another Package +

Track Packages  
Anytime, Anywhere

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Tracking Number: 9405511108033883126822

Remove X

Your item was delivered in or at the mailbox at 2:24 pm on July 11, 2022 in RICHMOND, VA 23219.

USPS Tracking Plus® Available ▾

✓ Delivered, In/At Mailbox

July 11, 2022 at 2:24 pm  
RICHMOND, VA 23219

Get Updates ▾

Text & Email Updates



Tracking History



July 11, 2022, 2:24 pm

Delivered, In/At Mailbox  
RICHMOND, VA 23219

Your item was delivered in or at the mailbox at 2:24 pm on July 11, 2022 in RICHMOND, VA 23219.

July 9, 2022, 11:01 am

No Access to Delivery Location  
RICHMOND, VA 23219

Feedback



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**July 9, 2022, 8:12 am**  
Arrived at Post Office  
RICHMOND, VA 23232

---

**July 9, 2022, 8:04 am**  
Arrived at USPS Facility  
RICHMOND, VA 23232

---

**July 9, 2022, 7:13 am**  
Departed USPS Regional Facility  
RICHMOND VA DISTRIBUTION CENTER

---

**July 9, 2022, 4:46 am**  
Arrived at USPS Regional Destination Facility  
RICHMOND VA DISTRIBUTION CENTER

---

**July 8, 2022**  
In Transit to Next Facility

---

**July 7, 2022, 8:27 pm**  
Arrived at USPS Regional Origin Facility  
EL PASO TX DISTRIBUTION CENTER

---

**July 7, 2022, 7:12 pm**  
Accepted at USPS Origin Facility  
EL PASO, TX 79912

---

**July 7, 2022, 4:34 pm**  
Shipping Label Created, USPS Awaiting Item  
EL PASO, TX 79912

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**USPS Tracking Plus®**



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**Product Information**



## Can't find what you're looking for?

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**FAQs**

```
      74,880
        3 x
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    224,640 =

      74,880 +
-----
    299,520 =
```

Date: 10/5/2022

Time: 3:24:04 PM

[www.moffsoft.com](http://www.moffsoft.com)

# EXHIBIT 3



**The Nevarez Law Firm, PC**  
**Attorneys And Counselors At Law**  
**7362 Remcon Circle**  
**El Paso, Texas 79912**  
**Telephone: (915) 225-2255**  
**Facsimiles: (915) 845-3405**

---

November 8, 2022

Norma Favela Barceleau  
El Paso District Clerk  
500 E. San Antonio, Suite 103  
El Paso, Texas 79901

Re: Request for Issuance of Citation  
*Oscar M. Garcia-Rodriguez v. Wells Fargo Bank, N.A., et al.*  
County Court At Law No. 6, El Paso County, Case No. 2022DCV3338

Norma Favela Barceleau:

This letter is to request the issuance of citation for “Plaintiff’s Original Petition” filed November 3, 2022, in the case of *Oscar M. Garcia-Rodriguez v. Wells Fargo Bank N.A., et al.*, Case No. 2022DCV3338.

Citation should be issued to the following defendants:

1. Wells Fargo Bank, N.A.  
c/o General Manager  
6110 N Mesa Street  
El Paso, TX 79912
2. Wells Fargo Bank, N.A.  
c/o Corporation Service Company, Registered Agent  
211 E. 7<sup>th</sup> Street, Suite 620  
Austin, TX 78701-3218
3. Wells Fargo Bank, N.A.  
420 Montgomery St.  
San Francisco, CA 94163
4. Navy Federal Credit Union  
c/o General Manager  
6450 N Desert Blvd., Unit D101  
El Paso, TX 79912

5. Navy Federal Credit Union  
c/o Corporation Service Company, Registered Agent  
100 Shockoe Slip FL 2  
Richmond, VA 23219-4100
6. Navy Federal Credit Union  
820 Follin Lane  
Vienna, VA 22180-4907

Please provide Citations via email at [paralegal-2@lawofficesmrn.com](mailto:paralegal-2@lawofficesmrn.com). Payment for the issuance of citation, at Eight Dollars (\$8) per each defendant, for six (6) defendants, for a total of Forty-eight Dollars (\$48) has been paid.

Feel free to let me know if you have any questions or comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael R. Nevarez", with a stylized flourish at the end.

Michael R. Nevarez, Esq.

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Michael Nevarez  
Bar No. 14933400  
MRN@MRN4Law.com  
Envelope ID: 69983055  
Status as of 11/10/2022 9:38 AM MST

## Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Michael Nevarez	14933400	mrn@mrn4law.com	11/8/2022 12:39:51 PM	SENT
Denise Macias		paralegal-2@lawofficesmrn.com	11/8/2022 12:39:51 PM	SENT

# EXHIBIT 4



Filed on November 10, 2022

4:25 PM

Norma Favela Barceleau

District Clerk

El Paso County, Texas

Aguirre, Clarisa

**THE STATE OF TEXAS**

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org"

TO: **WELLS FARGO BANK, N.A.**, who may be served with process by serving its General Manager at **6110 N. MESA STREET, EL PASO, TX 79912** or wherever he/she may be found.

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's Original Petition** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 6**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on this the 3<sup>rd</sup> day of November, 2022, by Attorney at Law, MICHAEL R. NEVAREZ, 7362 REMCON CIR, EL PASO, TX 79912 in this case numbered **2022DCV3338** on the docket of said court, and styled:

**OSCAR GARCIA-RODRIGUEZ**  
**VS**  
**WELLS FARGO BANK, N.A., AND NAVY FEDERAL CREDIT UNION**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's Original Petition** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 10<sup>th</sup> day of November, 2022.

CLERK OF THE COURT

**NORMA FAVELA BARCELEAU**  
 District Clerk  
 Enrique Moreno County Courthouse  
 500 E. San Antonio Ave, RM 103  
 El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk  
 El Paso County, Texas

By , Deputy  
 Clarisa Aguirre

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

**RETURN**

Came on hand on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ M., and executed in \_\_\_\_\_ County, Texas, by delivering to each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the **Plaintiff's Original Petition**, at the following times and places, to-wit:

NAME	MONTH	DATE DAY	YEAR	Hour	TIME Min.	____.M.	Place, and Course and Distance From Court House

And not executed as to the defendant, \_\_\_\_\_

The diligence used in finding said defendant, being \_\_\_\_\_

And the cause of failure to execute this process is: \_\_\_\_\_

And the information received as to the whereabouts of the said defendant, being \_\_\_\_\_

FEES—SERVING \_\_\_\_ copy \_\_\_\_ \$ \_\_\_\_\_ Sheriff

\_\_\_\_\_ County, Texas

Total \_\_\_\_\_ \$ \_\_\_\_\_ by \_\_\_\_\_, Deputy

**CERTIFICATE OF DELIVERY**

I do hereby certify that I delivered to \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_

20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ m. this copy of this instrument.

\_\_\_\_\_, Sheriff/Agent

\_\_\_\_\_ County, Texas

By \_\_\_\_\_, Deputy/Agent

**SUBSCRIBED AND SWORN TO BEFORE ME ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.**

**(SEAL)**

\_\_\_\_\_  
**NOTARY PUBLIC, STATE OF TEXAS**

# EXHIBIT 5

Filed on November 10, 2022

4:19 PM

Norma Favela Barceleau

District Clerk

El Paso County, Texas

Aguirre, Clarisa

**THE STATE OF TEXAS**

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org"

TO: **NAVY FEDERAL CREDIT UNION**, who may be served with process by serving its General Manager, at **6450 N. DESERT BLVD., UNIT D101, EL PASO, TX 79912** or wherever he/she may be found.

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's Original Petition** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 6**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on this the 3<sup>rd</sup> day of November, 2022, by Attorney at Law, MICHAEL R. NEVAREZ, 7362 REMCON CIR, EL PASO, TX 79912 in this case numbered **2022DCV3338** on the docket of said court, and styled:

**OSCAR GARCIA-RODRIGUEZ**  
**VS**  
**WELLS FARGO BANK, N.A., AND NAVY FERDERAL CREDIT UNION**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's Original Petition** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 10<sup>th</sup> day of November, 2022.

CLERK OF THE COURT

**NORMA FAVELA BARCELEAU**  
District Clerk  
Enrique Moreno County Courthouse  
500 E. San Antonio Ave, RM 103  
El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk  
El Paso County, Texas

By , Deputy  
Clarisa Aguirre

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

**RETURN**

Came on hand on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ M., and executed in \_\_\_\_\_ County, Texas, by delivering to each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the **Plaintiff's Original Petition**, at the following times and places, to-wit:

NAME	MONTH	DATE DAY	YEAR	Hour	TIME Min.	____.M.	Place, and Course and Distance From Court House

And not executed as to the defendant, \_\_\_\_\_

The diligence used in finding said defendant, being \_\_\_\_\_

And the cause of failure to execute this process is: \_\_\_\_\_

And the information received as to the whereabouts of the said defendant, being \_\_\_\_\_

FEES—SERVING \_\_\_\_ copy \_\_\_\_ \$ \_\_\_\_\_ Sheriff

\_\_\_\_\_ County, Texas

Total \_\_\_\_\_ \$ \_\_\_\_\_ by \_\_\_\_\_, Deputy

**CERTIFICATE OF DELIVERY**

I do hereby certify that I delivered to \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_

20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ m. this copy of this instrument.

\_\_\_\_\_, Sheriff/Agent

\_\_\_\_\_ County, Texas

By \_\_\_\_\_, Deputy/Agent

**SUBSCRIBED AND SWORN TO BEFORE ME ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.**

**(SEAL)**

\_\_\_\_\_  
**NOTARY PUBLIC, STATE OF TEXAS**

# EXHIBIT 6

Filed on November 10, 2022  
4:20 PM  
Norma Favela Barceau  
District Clerk  
El Paso County, Texas  
Aguirre, Clarisa

**THE STATE OF TEXAS**

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org"

TO: **NAVY FEDERAL CREDIT UNION**, who may be served with process by serving its registered agent, **CORPORATION SERVICE COMPANY at 100 SHOCKOE SLIP FL2, RICHMOND, VA 23219-4100** or wherever he/she may be found.

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's Original Petition** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 6**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on this the 3<sup>rd</sup> day of November, 2022, by Attorney at Law, MICHAEL R. NEVAREZ, 7362 REMCON CIR, EL PASO, TX 79912 in this case numbered **2022DCV3338** on the docket of said court, and styled:

**OSCAR GARCIA-RODRIGUEZ**  
**VS**  
**WELLS FARGO BANK, N.A., AND NAVY FERDERAL CREDIT UNION**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's Original Petition** accompanying this citation and made a part hereof.

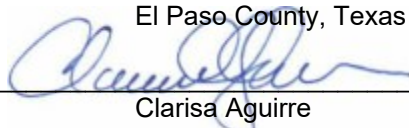
The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 10<sup>th</sup> day of November, 2022.

CLERK OF THE COURT

**NORMA FAVELA BARCELEAU**  
District Clerk  
Enrique Moreno County Courthouse  
500 E. San Antonio Ave, RM 103  
El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk  
El Paso County, Texas  
By , Deputy  
Clarisa Aguirre

Rule 106: "-the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

**RETURN**

Came on hand on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ M., and executed in \_\_\_\_\_ County, Texas, by delivering to each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the **Plaintiff's Original Petition**, at the following times and places, to-wit:

NAME	MONTH	DATE DAY	YEAR	Hour	TIME Min.	____.M.	Place, and Course and Distance From Court House

And not executed as to the defendant, \_\_\_\_\_

The diligence used in finding said defendant, being \_\_\_\_\_

And the cause of failure to execute this process is: \_\_\_\_\_

And the information received as to the whereabouts of the said defendant, being \_\_\_\_\_

FEES—SERVING \_\_\_\_ copy \_\_\_\_ \$ \_\_\_\_\_ Sheriff

\_\_\_\_\_ County, Texas

Total \_\_\_\_\_ \$ \_\_\_\_\_ by \_\_\_\_\_, Deputy

**CERTIFICATE OF DELIVERY**

I do hereby certify that I delivered to \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_

20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ m. this copy of this instrument.

\_\_\_\_\_, Sheriff/Agent

\_\_\_\_\_ County, Texas

By \_\_\_\_\_, Deputy/Agent

**SUBSCRIBED AND SWORN TO BEFORE ME ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.**

**(SEAL)**

\_\_\_\_\_  
**NOTARY PUBLIC, STATE OF TEXAS**



# EXHIBIT 7

Filed on November 10, 2022

4:20 PM

Norma Favela Barceleau

District Clerk

El Paso County, Texas

Aguirre, Clarisa

**THE STATE OF TEXAS**

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org"

TO: **NAVY FEDERAL CREDIT UNION**, who may be served with process at **820 FOLLIN LANE, VIENNA, VA 22180-4907** or wherever he/she may be found.

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's Original Petition** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 6**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on this the 3<sup>rd</sup> day of November, 2022, by Attorney at Law, MICHAEL R. NEVAREZ, 7362 REMCON CIR, EL PASO, TX 79912 in this case numbered **2022DCV3338** on the docket of said court, and styled:

**OSCAR GARCIA-RODRIGUEZ**  
**VS**  
**WELLS FARGO BANK, N.A., AND NAVY FERDERAL CREDIT UNION**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's Original Petition** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 10<sup>th</sup> day of November, 2022.

CLERK OF THE COURT

**NORMA FAVELA BARCELEAU**  
 District Clerk  
 Enrique Moreno County Courthouse  
 500 E. San Antonio Ave, RM 103  
 El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk  
 El Paso County, Texas

By , Deputy  
 Clarisa Aguirre

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

**RETURN**

Came on hand on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ M., and executed in \_\_\_\_\_ County, Texas, by delivering to each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the **Plaintiff's Original Petition**, at the following times and places, to-wit:

NAME	MONTH	DATE DAY	YEAR	Hour	TIME Min.	____.M.	Place, and Course and Distance From Court House

And not executed as to the defendant, \_\_\_\_\_

The diligence used in finding said defendant, being \_\_\_\_\_

And the cause of failure to execute this process is: \_\_\_\_\_

And the information received as to the whereabouts of the said defendant, being \_\_\_\_\_

FEES—SERVING \_\_\_\_ copy \_\_\_\_ \$ \_\_\_\_\_ Sheriff

\_\_\_\_\_ County, Texas

Total \_\_\_\_\_ \$ \_\_\_\_\_ by \_\_\_\_\_, Deputy

**CERTIFICATE OF DELIVERY**

I do hereby certify that I delivered to \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_

20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ m. this copy of this instrument.

\_\_\_\_\_, Sheriff/Agent

\_\_\_\_\_ County, Texas

By \_\_\_\_\_, Deputy/Agent

**SUBSCRIBED AND SWORN TO BEFORE ME ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.**

**(SEAL)**

\_\_\_\_\_  
**NOTARY PUBLIC, STATE OF TEXAS**

# EXHIBIT 8

Filed on November 10, 2022

4:25 PM

Norma Favela Barceleau

District Clerk

El Paso County, Texas

Aguirre, Clarisa

**THE STATE OF TEXAS**

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org"

TO: **WELLS FARGO BANK, N.A.**, who may be served with process by serving its Registered Agent, **CORPORATION SERVICE COMPANY** at **211 E. 7<sup>TH</sup> STREET, SUITE 620, AUSTIN, TX 78701-3218** or wherever he/she may be found.

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's Original Petition** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 6**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on this the 3<sup>rd</sup> day of November, 2022, by Attorney at Law, **MICHAEL R. NEVAREZ**, 7362 REMCON CIR, EL PASO, TX 79912 in this case numbered **2022DCV3338** on the docket of said court, and styled:

**OSCAR GARCIA-RODRIGUEZ****VS****WELLS FARGO BANK, N.A., AND NAVY FEDERL CREDIT UNION**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's Original Petition** accompanying this citation and made a part hereof.

The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 10<sup>th</sup> day of November, 2022.

CLERK OF THE COURT

**NORMA FAVELA BARCELEAU**  
District Clerk  
Enrique Moreno County Courthouse  
500 E. San Antonio Ave, RM 103  
El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk  
El Paso County, Texas

By , Deputy  
Clarisa Aguirre

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

**RETURN**

Came on hand on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ M., and executed in \_\_\_\_\_ County, Texas, by delivering to each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the **Plaintiff's Original Petition**, at the following times and places, to-wit:

NAME	MONTH	DATE DAY	YEAR	Hour	TIME Min.	____.M.	Place, and Course and Distance From Court House

And not executed as to the defendant, \_\_\_\_\_

The diligence used in finding said defendant, being \_\_\_\_\_

And the cause of failure to execute this process is: \_\_\_\_\_

And the information received as to the whereabouts of the said defendant, being \_\_\_\_\_

FEES—SERVING \_\_\_\_ copy \_\_\_\_ \$ \_\_\_\_\_ Sheriff

\_\_\_\_\_ County, Texas

Total \_\_\_\_\_ \$ \_\_\_\_\_ by \_\_\_\_\_, Deputy

**CERTIFICATE OF DELIVERY**

I do hereby certify that I delivered to \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_

20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ m. this copy of this instrument.

\_\_\_\_\_, Sheriff/Agent

\_\_\_\_\_ County, Texas

By \_\_\_\_\_, Deputy/Agent

**SUBSCRIBED AND SWORN TO BEFORE ME ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.**

**(SEAL)**

\_\_\_\_\_  
**NOTARY PUBLIC, STATE OF TEXAS**

# EXHIBIT 9

Filed on November 10, 2022  
4:25 PM  
Norma Favela Barceleau  
District Clerk  
El Paso County, Texas  
Aguirre, Clarisa

**THE STATE OF TEXAS**

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org"

TO: **WELLS FARGO BANK, N.A.**, who may be served with process at **420 MONTGOMERY ST., SAN FRANCISCO, CA 94163** or wherever he/she may be found.

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's Original Petition** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 6**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on this the 3<sup>rd</sup> day of November, 2022, by Attorney at Law, MICHAEL R. NEVAREZ, 7362 REMCON CIR, EL PASO, TX 79912 in this case numbered **2022DCV3338** on the docket of said court, and styled:

**OSCAR GARCIA-RODRIGUEZ**  
**VS**  
**WELLS FARGO BANK, N.A., AND NAVY FEDERL CREDIT UNION**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's Original Petition** accompanying this citation and made a part hereof.

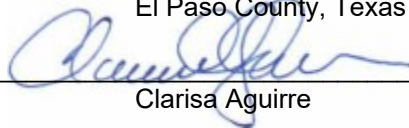
The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 10<sup>th</sup> day of November, 2022.

CLERK OF THE COURT

**NORMA FAVELA BARCELEAU**  
District Clerk  
Enrique Moreno County Courthouse  
500 E. San Antonio Ave, RM 103  
El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk  
El Paso County, Texas  
By , Deputy  
Clarisa Aguirre

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."



**RETURN**

Came on hand on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ M., and executed in \_\_\_\_\_ County, Texas, by delivering to each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the **Plaintiff's Original Petition**, at the following times and places, to-wit:

NAME	MONTH	DATE DAY	YEAR	Hour	TIME Min.	____.M.	Place, and Course and Distance From Court House

And not executed as to the defendant, \_\_\_\_\_

The diligence used in finding said defendant, being \_\_\_\_\_

And the cause of failure to execute this process is: \_\_\_\_\_

And the information received as to the whereabouts of the said defendant, being \_\_\_\_\_

FEES—SERVING \_\_\_\_ copy \_\_\_\_ \$ \_\_\_\_\_ Sheriff

\_\_\_\_\_ County, Texas

Total \_\_\_\_\_ \$ \_\_\_\_\_ by \_\_\_\_\_, Deputy

**CERTIFICATE OF DELIVERY**

I do hereby certify that I delivered to \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_

20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ m. this copy of this instrument.

\_\_\_\_\_, Sheriff/Agent

\_\_\_\_\_ County, Texas

By \_\_\_\_\_, Deputy/Agent

**SUBSCRIBED AND SWORN TO BEFORE ME ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.**

**(SEAL)**

\_\_\_\_\_  
**NOTARY PUBLIC, STATE OF TEXAS**

# EXHIBIT 10



## Notice of Service of Process

Transmittal Number: 25967902  
Date Processed: 11/30/2022

**Primary Contact:** WF West - WF Bank  
Corporation Service Company- Wilmington, DELAWARE  
251 Little Falls Dr  
Wilmington, DE 19808-1674

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<b>Entity:</b>	Wells Fargo Bank, N.A. Entity ID Number 2787565
<b>Entity Served:</b>	Wells Fargo Bank, N.A.
<b>Title of Action:</b>	Oscar M. Garcia-Rodriguez vs. Wells Fargo Bank, N.A.
<b>Matter Name/ID:</b>	Oscar M. Garcia-Rodriguez vs. Wells Fargo Bank, N.A. (13258065)
<b>Document(s) Type:</b>	Citation/Petition
<b>Nature of Action:</b>	Contract
<b>Court/Agency:</b>	El Paso County Court at Law, TX
<b>Case/Reference No:</b>	2022DCV3338
<b>Jurisdiction Served:</b>	California
<b>Date Served on CSC:</b>	11/23/2022
<b>Answer or Appearance Due:</b>	10:00 am Monday next following the expiration of 20 days after service
<b>Originally Served On:</b>	WFB NA
<b>How Served:</b>	Client Direct
<b>Sender Information:</b>	The Nevarez Law Firm, PC 915-225-2255
<b>Client Requested Information:</b>	Matter Management User Groups: [LITIGATION Hach, Rathminee (Core Team)] Routing Rules (CSC): R1623 Classification: Standard

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Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

**To avoid potential delay, please do not send your response to CSC**

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | [sop@cscglobal.com](mailto:sop@cscglobal.com)

**WELLS FARGO CLIENT DIRECT – SAN ANTONIO, TX**  
**WELLS FARGO BANK**  
**4101 WISEMAN BLVD BLDG 108**  
**SAN ANTONIO, TX 78251-4200**  
**MAC: T7408-013**

**BATCH COVER SHEET**

**For use only when overnighting multiple services**

---

DATE SERVED: 11-23-2022

TO: Service of Process / Corporation Service Company

OVERNIGHT: Corporation Service Company  
Attn: SOP / Wells Fargo  
1201 Hays Street  
Tallahassee, FL 32301-2699  
800-927-9801

FROM: ☐ Jerry Arispe  
☐ Fernando Escobedo  
☒ JoAnn Esquivel  
☐ Maria Minor

SENDER PHONE NO.: 210-624-0146

STATE SERVED: Per document

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COMMENTS/NOTES:

CA-6

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Please read this section: The date on this cover sheet is the date that the Wells Fargo EIS Customer Support team received this service. CSC has a mandatory date served field and this date will be entered as we may not have the actual date served.

If a Wells Fargo enterprise mailroom receives an envelope that does not include a team members name, mac code, or the team has been displaced, the mail is sent to the EIS Customer Support team to open the envelope, review the document and route. When the mail is received at the many locations, the date received may or may not be added. The SOP team requested that all legal mail from the EIS Customer Support team be sent to CSC to upload to CSC Navigator/Matter Management and route.

This facsimile contains information which (a) may be LEGALLY PRIVILEGED, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) is intended only for the use of the Addressee(s). If you are not the Addressee, or the person responsible for delivering this to the Addressee(s), you are hereby notified that reading, copying or distributing this facsimile is prohibited. If you have received this facsimile in error, please email us so we may provide you with a mailing address to send the document back to us.

**THE STATE OF TEXAS**

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexasLawHelp.org"

TO: **WELLS FARGO BANK, N.A.**, who may be served with process at **420 MONTGOMERY ST., SAN FRANCISCO, CA 94163** or wherever he/she may be found.

Greetings:

You are hereby commanded to appear by filing a written answer to the **Plaintiff's Original Petition** at or before ten o'clock A.M. of the Monday next after the expiration of twenty days after the date of service of this citation before the Honorable **County Court at Law Number 6**, El Paso County, Texas, at the Court House of said County in El Paso, Texas.

Said Plaintiff's Petition was filed in said court on this the 3<sup>rd</sup> day of November, 2022, by Attorney at Law, MICHAEL R. NEVAREZ, 7362 REMCON CIR, EL PASO, TX 79912 in this case numbered **2022DCV3338** on the docket of said court, and styled:

**OSCAR GARCIA-RODRIGUEZ**  
**VS**  
**WELLS FARGO BANK, N.A., AND NAVY FERDERAL CREDIT UNION**

The nature of Plaintiff's demand is fully shown by a true and correct copy of the **Plaintiff's Original Petition** accompanying this citation and made a part hereof.

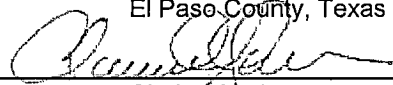
The officer executing this writ shall promptly serve the same according to requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at El Paso, Texas, on this the 10<sup>th</sup> day of November, 2022.

CLERK OF THE COURT

**NORMA FAVELA BARCELEAU**  
District Clerk  
Enrique Moreno County Courthouse  
500 E. San Antonio Ave, RM 103  
El Paso, Texas 79901



Attest: NORMA FAVELA BARCELEAU District Clerk  
El Paso County, Texas  
By , Deputy  
Clarisa Aguirre

Rule 106: "the citation shall be served by the officer delivering to each defendant, in person, a true copy of the citation with the date of delivery endorsed thereon and with a copy of the petition attached thereto."

**RETURN**

Came on hand on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M., and executed in \_\_\_\_\_ County, Texas, by delivering to each of the within-named defendants, in person, a true copy of this Citation, having first endorsed thereon the date of delivery, together with the accompanying true and correct copy of the **Plaintiff's Original Petition**, at the following times and places, to-wit:

NAME	MONTH	DATE DAY	YEAR	Hour	TIME Min.	____M.	Place, and Course and Distance From Court House

And not executed as to the defendant, \_\_\_\_\_

The diligence used in finding said defendant, being \_\_\_\_\_

And the cause of failure to execute this process is: \_\_\_\_\_

And the information received as to the whereabouts of the said defendant, being \_\_\_\_\_

FEES—SERVING \_\_\_\_ copy \_\_\_\_ \$ \_\_\_\_\_ Sheriff

\_\_\_\_\_ County, Texas

Total \_\_\_\_\_ \$ \_\_\_\_\_ by \_\_\_\_\_, Deputy

**CERTIFICATE OF DELIVERY**

I do hereby certify that I delivered to \_\_\_\_\_, on the \_\_\_\_ day of \_\_\_\_\_

20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_m. this copy of this instrument.

\_\_\_\_\_, Sheriff/Agent

\_\_\_\_\_ County, Texas

By \_\_\_\_\_, Deputy/Agent

**SUBSCRIBED AND SWORN TO BEFORE ME ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.**

**(SEAL)**

\_\_\_\_\_  
**NOTARY PUBLIC, STATE OF TEXAS**

OSCAR M. GARCIA-RODRIGUEZ,

Plaintiff,

v.

WELLS FARGO BANK, N.A. and,  
NAVY FERDERAL CREDIT UNION,

Defendants.

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CASE NUMBER: \_\_\_\_\_

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**PLAINTIFF'S ORIGINAL PETITION**

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**TO THE HONORABLE JUDGE OF SAID COURT:**

**COMES NOW** OSCAR M. GARCIA-RODRIGUEZ ("Plaintiff" and/or "GARCIA"), by and through the undersigned counsel, and hereby files this "Plaintiff's Original Petition" ("Petition") against Defendants WELLS FARGO BANK, N.A. ("WELLS FARGO") and NAVY FEDERAL CREDIT UNION ("NFCU") (collectively "Defendants") (with Plaintiff and Defendants hereinafter jointly referred to as the "Parties"), and would respectfully show the Court as follows:

**I. INTRODUCTION.**

1. This is a cause of action by Plaintiff, against WELLS FARGO and NFCU, as jointly and severally liable, for (a) Action for Breach of Contract; (b) Action for Monies Due on a Written Debt; (c) Action for Money Had and Received; (d) Action for *Quantum Meruit*; (e) Action for Promissory Estoppel As A Claim; (f) Action for Appropriation by Theft; (g) Action for Conversion, (h) Action for Fraud by Misrepresentation and/or Inducement; (i) Action for Fraud by Nondisclosure; (j) Action for Negligence and/or Gross Negligence; (k) Action for

Breach of Duty of Good Faith and Fair Dealing; (l) Action for Unjust Enrichment, and (m) Action for Texas Deceptive Trade Practices Act.

2. Plaintiff seeks actual damages in the amount of **\$4,880.00**, and treble damages pursuant to the Texas Deceptive Trade Practices in the amount of **\$224,640.00**, for a total claim amount of **\$299,520.00**, plus costs of court, attorney fees, pre-judgment interest, and post-judgment interest.

## **II. DISCOVERY.**

3. Discovery is intended to be conducted under Level 2 of Texas Rule of Civil Procedure 190.2. Plaintiff affirmatively pleads that this suit is governed by the expedited-actions process in Texas Rule of Civil Procedure 169(d).

## **III. CLAIM FOR RELIEF.**

4. Plaintiff seeks monetary relief of only \$250,000.00 or less, excluding attorney fees, pre-judgment interest, post-judgment interest, statutory or punitive damages and penalties, and as may be awarded by the trier of fact. Tex. R. Civ. P. 47(c)(1).

## **IV. THE PARTIES AND SERVICE.**

5. Plaintiff OSCAR M. GARCIA-RODRIGUEZ, is a resident under the laws of the State of Texas.

6. Upon information and belief, Defendant WELLS FARGO BANK, N.A. is a foreign financial institution chartered as a National Banking Association by the Comptroller of Currency, United States of America, and authorized to do business under the laws of the State of Texas, and may be served with process by serving (a) its General Manager at its local branch located at 6110 N Mesa Street, El Paso, TX, or (b) its registered agent for service of process, Corporation Service Company, at 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701-3218, or (c)



at Defendant's main office located at Wells Fargo Bank, N.A., 420 Montgomery St., San Francisco, CA 94163, or wherever said Defendant may be found.

7. Upon information and belief, Defendant NAVY FEDERAL CREDIT UNION. is a foreign not-for-profit nonstock credit union engaged in the business of banking in the State of Texas, and authorized to do business under the laws of the State of Texas, and may be served with process by serving (a) its General Manager at its local branch located at 6450 N Desert Blvd, Unit D101, El Paso, TX, or (b) its registered agent for service of process, Corporation Service Company, at 100 Shockoe Slip FL 2, Richmond, VA 23219-4100, or (c) at Defendant's main office located at Navy Federal Credit Union, 820 Follin Lane, Vienna, VA 22180-4907, or wherever said Defendant may be found.

#### **V. JURISDICTION AND VENUE.**

8. This Court has jurisdiction over these claims and controversy because the subject matter is not within the exclusive original jurisdiction of some other court or administrative body, and the amount in controversy exceeds the minimum jurisdictional amount.

9. This Court has jurisdiction over the controversy as Defendants do business in El Paso County, Texas, and the facts and events giving rise to this cause of action took place in El Paso County, Texas.

10. Venue is proper in this Court pursuant to Tex. Civ. Prac. & Rem. Code Ann. §§ 15.002, 15.004, 15.006, and 15.035.

#### **VI. FACTUAL BACKGROUND.**

11. At all times relevant herein, GARCIA maintained a checking account ending number 0329 with WELLS FARGO through various branches in the State of Texas, and no one else was authorized on said account.

12. At all times relevant herein, GARCIA had online banking access for said WELLS FARGO checking account ending number 0329, and no one else (a) was authorized to have online banking access for said WELLS FARGO account, or (b) knew the username and password for said online WELLS FARGO account.

13. Unknown to GARCIA, and without GARCIA's authorization, WELLS FARGO made three (3) unauthorized fraudulent wire transfers to NFCU in the total amount of **\$74,880.00**.

14. Accordingly, in February of 2022, GARCIA notified WELLS FARGO of the three (3) unauthorized fraudulent wire transfers in the total amount of **\$74,880.00**, that were withdrawn from GARCIA's checking account number XXXXXX0329.

15. The three (3) unauthorized fraudulent wire transfers are as follows:

- a. 02/15/2022 – Wire Transfer to NFCU in the amount of \$24,900.00, TRN#220215205991
- b. 02/16/2022 – Wire Transfer to NFCU in the amount of \$24,990.00, TRN#220216084038
- c. 02/17/2022 – Wire Transfer to NFCU in the amount of \$24,990.00, TRN#220217068633

16. GARCIA subsequently received a letter from WELLS FARGO dated March 22, 2022, stating that a wire recall was initiated by WELLS FARGO to attempt recovery of the funds from NFCU, and that WELLS FARGO was unsuccessful due to the NFCU not having the funds available for return. Said letter also stated that WELLS FARGO was unable to reimburse GARCIA the **\$74,880** and had closed out GARCIA's Claim #2022021700810. (See Exhibit A attached hereto).

17. On July 7, 2022, GARCIA sent a Demand Letter to WELLS FARGO and NFCU, demanding payment of the three (3) unauthorized fraudulent wire transfers totaling **\$74,880** due

GARCIA, within ten (10) days of WELLS FARGO and NFCU's receipt of the Demand Letter. Said Demand Letter also provided WELLS FARGO and NFCU sixty (60) days from the date of receipt of the Demand Letter to reimburse GARCIA for the damages incurred by GARCIA, and caused by WELLS FARGO and NFCU. (See Exhibit B attached hereto).

18. Although the Demand Letters were received by WELLS FARGO and NFCU on July 8<sup>th</sup>, 9<sup>th</sup>, and 11<sup>th</sup>, 2022. (See Exhibits C and D attached hereto).

19. However, no response to the Demand Letter was received from WELLS FARGO, while Attorney Elizabeth Philips of the NFCU replied that they were unwilling to pay the \$74,880 due GARCIA, during a telephone discussion with the undersigned counsel on August 18, 2022.

20. As a result of WELLS FARGO and NFCU's failure and/or refusal to pay to GARCIA the total payment of \$74,880, GARCIA has suffered the following actual damages and costs:

- a. Actual damages of \$74,880; and,
- b. Attorney's fees and costs to prepare the Demand Letter, and prosecute this cause of action.

21. Accordingly, GARCIA has suffered a total of \$74,880.00, not including interest, attorney's fees and costs, or other damages, as a result of WELLS FARGO and NFCU's failure and/or refusal to reimburse GARCIA his outstanding checking account balance of \$74,880.00.

22. Furthermore, because WELLS FARGO and NFCU's breached and failed and/or refused to comply with its express and/or implied AGREEMENT and/or CONTRACT, as federally-insured financial institutions, that they would retain, protect, return and reimburse GARCIA the total amount of the funds in GARCIA's checking account, upon request and demand, Defendants thereby engaged in an unconscionable act and/or course of action, through

the use and/or employment of false, misleading, or deceptive acts and/or practices, and misrepresentations, that GARCIA reasonably and justifiably relied upon to his detriment. Therefore, in accordance with the Deceptive Trade Practices–Consumer Protection Act (DTPA), pursuant to Texas Business & Commerce Code Chapter 17, "Deceptive Trade Practices", Defendants are liable for treble damages under the DTPA.

23. Therefore, GARCIA hereby claims DTPA treble damages in the total amount of **\$224,640.00, which is three (3) times the \$74,880.00 total due GARCIA**, thereby raising the total amount of the claim herein to **\$299,520.00**, not including interest, attorney's fees and costs, or other damages. (See Exhibit E attached hereto).

24. The Defendants herein are jointly and severally liable, because at all relevant times herein, each of the Defendants herein operated their businesses unlawfully, and in conspiracy with each other, in order to perpetrate an actual or constructive fraud upon the Plaintiff, for the direct personal benefit of said Defendants.

## **VII. CAUSES OF ACTION.**

### **A. Action for Breach of Contract.**

25. GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Breach of Contract, against WELLS FARGO, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

### **B. Action for Monies Due on a Written Debt.**

26. In the alternative, and in addition to the foregoing cause(s) of action, GARCIA re-

alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Monies Due on a Written Debt, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**C. Action for Money Had and Received.**

27. In the alternative, and in addition to the foregoing cause(s) of action, GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Money Had and Received, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**D. Action for Quantum Meruit.**

28. In the alternative, and in addition to the foregoing cause(s) of action, GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Quantum Meruit, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**E. Action for Promissory Estoppel As A Claim.**

29. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Promissory Estoppel as a Claim, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**F. Action for Conversion.**

30. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Conversion, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**G. Action for Appropriation by Theft.**

31. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Appropriation by Theft, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**H. Action for Fraud by Misrepresentation and/or Inducement.**

32. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Fraud by Misrepresentation and/or Inducement, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**I. Action for Fraud by Nondisclosure.**

33. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Fraud by Nondisclosure, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**J. Action for Negligence and/or Gross Negligence.**

34. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Negligence and/or Gross Negligence, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by

Defendants.

**K. Action for Breach of Duty of Good Faith and Fair Dealing.**

35. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Breach of Duty of Good Faith and Fair Dealing, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**L. Action for Unjust Enrichment.**

36. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for Unjust Enrichment, against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, due to the actions and inactions of Defendants, and hereby requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by Defendants.

**M. Action For Texas Deceptive Trade Practices.**

37. In the alternative, and in addition to the foregoing count(s), GARCIA re-alleges and incorporates herein all of the above paragraphs, the same as if fully set forth verbatim, and files this Action for violation of the Deceptive Trade Practices–Consumer Protection Act (DTPA), pursuant to Texas Business & Commerce Code Chapter 17, "Deceptive Trade Practices", against WELLS FARGO and NFCU, on the basis that GARCIA has suffered monetary damage, financial injury, and mental anguish and/or emotional distress, and hereby



requests relief in an amount to be determined by the trier of fact, as directly and proximately caused by said Defendants.

**VIII. CONDITIONS PRECEDENT.**

38. All conditions precedent have been performed or have occurred.

**IX. NO FEDERAL CLAIMS.**

39. Plaintiff does not assert any claim in this Petition under Federal common law, or any Federal rule, regulation, or statute, or any other Federal law.

**X. PRAYER FOR RELIEF.**

**WHEREFORE, PREMISES CONSIDERED,** Plaintiff OSCAR M. GARCIA-RODRIGUEZ herein requests and prays that Defendants WELLS FARGO BANK, N.A. and NAVY FEDERAL CREDIT UNION be cited to appear and answer herein, and that after final trial on this matter, GARCIA be awarded the following upon entry of Judgment against Defendants WELLS FARGO BANK, N.A. and NAVY FEDERAL CREDIT UNION, with said Defendants held jointly and severally liable for the following:

- a. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as actual and/or compensatory damages for the actual economic or pecuniary loss, pursuant to Chapter 41 of the Texas Civil Practice & Remedies Code, “Damages”;
- b. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as Exemplary Damages, in accordance with (i) the Texas Civil Practice and Remedies Code Chapter 41, “Damages”, and (ii) the Texas Business & Commerce Code Chapter 27, “Fraud”;
- c. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as Damages, in accordance with Chapter 134 of the Texas Civil Practice & Remedies Code, “Texas Theft Liability Act”;

- d. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as Treble Damages, in accordance with the Texas Deceptive Trade Practices (“DTPA”), and the common law of the State of Texas;
- e. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as noneconomic Punitive Damages, pursuant to the common law of the State of Texas;
- f. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as Special Damages, under the common law of the State of Texas;
- g. Payment in an amount to be determined by the trier of fact, and as may be appropriate, by Defendants to GARCIA, as Unliquidated Damages, under the common law of the State of Texas;
- h. Payment, by Defendants to GARCIA, of all reasonable and necessary attorney’s fees incurred to date, as well as all costs incurred to date, in accordance with (i) the Texas Civil Practice & Remedies Code Chapter 38, “Attorney’s Fees”, (ii) the Texas Civil Practice and Remedies Code Chapter 134, “Texas Theft Liability Damages”, (iii) the Texas Business & Commerce Code Chapter 27, “Fraud”, (iv) the Texas Deceptive Trade Practices (“DTPA”), and (v) the Texas Civil Practice & Remedies Code Chapter 37, “Declaratory Judgments”;
- i. Payment, by Defendants to GARCIA, of pre-judgment interest, calculated on an annual basis on the total judgment herein, from the date of judgment herein until fully paid, at the highest legal or contractual rate allowed by law;
- j. Payment, by Defendants to GARCIA, of post-judgment interest, calculated on an annual basis on the total judgment herein, from the date of judgment until fully paid, at the highest legal or contractual rate allowed by law;
- k. Payment, by Defendants to GARCIA, of **\$12,500** for the time (approximately 50 hours) that would be incurred in making or responding to an appeal, or an application for writ of error to the court of appeals, and arguing such an appeal, provided that if Defendants do not appeal this judgment to the court of appeals, and time for appeal to that court has expired, Defendants shall be entitled to a remittitur of **\$12,500** against this judgment for said attorney’s fees;
- l. Payment, by Defendants to GARCIA, of **\$12,500** for the time (approximately 50 hours) that would be incurred in making or responding to an appeal or an application for writ of error to the Supreme Court of the

State of Texas, provided that if Defendants do not appeal from the court of appeals to the Supreme Court of the State of Texas, and time for that appeal has expired, Defendants shall be entitled to a remittitur of **\$12,500** against this judgment for said attorney's fees;

- m. Payment, by Defendants to GARCIA, of **\$12,500** for the time (approximately 50 hours) that would be incurred if any such application for writ of error were granted, and oral argument had to be made before the Supreme Court of the State of Texas, provided that if Defendants do not appeal from the court of appeals to the Supreme Court of the State of Texas, and time for that appeal has expired, Defendants shall be entitled to a remittitur of **\$12,500** against this judgment for said attorney's fees;
- n. Payment, by Defendants to GARCIA, of **\$12,500** for the time (approximately 50 hours) that necessarily would be incurred in post-judgment collection;
- o. Issuance of all writs of execution and other process necessary to enforce this judgment, including but not limited to attachment, sequestration, garnishment, liens, receivership, and/or injunction;
- p. Issuance of a permanent mandatory injunction forever compelling Defendants, as well as its officers, agents, servants, employees, attorneys, representatives, and subsidiaries, to deliver, to GARCIA, title to real property lots equal in value to the Total Amount Due, and awarding all other relief to which GARCIA is entitled, whether pled or unpled; and,
- q. Any and all other further relief, both at law and in equity, the Court deems appropriate, whether pled or unpled.

November 3, 2022

Respectfully submitted,

**THE NEVAREZ LAW FIRM, PC**  
Attorneys And Counselors At Law  
7362 Remcon Circle  
El Paso, Texas 79912  
Telephone: (915) 225-2255  
Facsimiles: (915) 845-3405  
Email: [MNevarez@LawOfficesMRN.com](mailto:MNevarez@LawOfficesMRN.com)  
/s/ Michael R. Nevarez  
By: **MICHAEL R. NEVAREZ**  
State of Texas Bar No. 14933400

Attorney for Plaintiff  
Oscar M. Garcia-Rodriguez

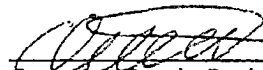
STATE OF TEXAS )

COUNTY OF EL PASO )

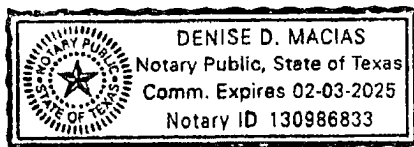
**AFFIDAVIT OF VERIFICATION**


Before me, the undersigned authority, personally appeared Oscar M. Garcia-Rodriguez, who swore on oath that the following facts are true and correct:

"My name is, and I am the Plaintiff in the foregoing cause of action. I am over the age of 18 and currently dwelling in the State of Texas. I am of sound mind and capable of understanding and making this affidavit. I have read the foregoing Plaintiffs' Original Petition, and have personal knowledge of all of the facts and contentions stated therein, and do hereby verify that all of the facts and contentions stated therein are true and correct, and, if called as a witness, could appear and testify competently thereto."

  
Oscar M. Garcia-Rodriguez, Affiant

SIGNED under oath before me, an officer authorized to administer oaths, on this the 3RD of November, 2022.



(SEAL)  
  
Notary Public, State of Texas  
Name: Denise D Macias

My Commission Expires:  
02/03/2025

**Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Michael Nevarez  
Bar No. 14933400  
MRN@MRN4Law.com  
Envelope ID: 69860952  
Status as of 11/8/2022 8:26 AM MST

**Case Contacts**

Name	BarNumber	Email	TimestampSubmitted	Status
Michael Nevarez	14933400	mrn@mrn4law.com	11/3/2022 2:48:50 PM	SENT
Denise Macias		paralegal-2@lawofficesmrn.com	11/3/2022 2:48:50 PM	SENT
Denise Macias		paralegal-2@lawofficesmrn.com	11/3/2022 2:48:50 PM	SENT



Claims Assistance Center  
ACH/Check Fraud  
MAC D1118-02F  
12301 Vance Davis Dr. Floor 02  
Charlotte, NC 28269-7699

[wellsfargo.com](https://www.wellsfargo.com)

March 22, 2022

OSCAR M GARCIA-RODRIGUEZ  
11121 PINK CORAL DR  
EL PASO TX 79936-3005

Subject: Resolution of online wire inquiry for Checking account ending 0329  
Claim #: 2022021700810

Dear OSCAR M GARCIA-RODRIGUEZ:

We've completed our research of your inquiry about (3) three disputed wire transfer requests initiated through online banking totaling \$ \$74,880.00 sent between 02/15/2022 and 02/17/2022. We found the wire transfers were requested through an online banking session using your username and password. After reviewing all the information available to us regarding the disputed transaction, we've determined that you or someone who had your authorization performed the transaction.

As a courtesy, we initiated a wire recall on your behalf to attempt recovery of the funds. Unfortunately, the beneficiary bank responded that there were no funds available to return. As a result, we are unable to reimburse you and have closed your claim.

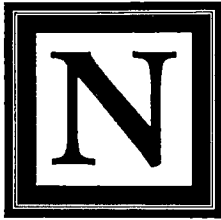
For more information to help protect against fraud, please visit:  
<https://www.wellsfargo.com/privacy-security/fraud>

If you have questions, please call us at 1-877-548-9230, Monday through Friday, 7:00 a.m. to midnight, or Saturday, 8:00 a.m. to 8:00 p.m. Eastern Time. For customers with hearing or speech disabilities, we accept telecommunications relay service calls.

Thank you. We appreciate your business.

Sincerely,

Claims Assistance Center/Check Fraud Claims



THE NEVAREZ LAW FIRM, PC  
ATTORNEYS AND COUNSELORS AT LAW  
7362 REMCON CIRCLE, EL PASO, TEXAS 79912  
TELEPHONE: (915) 225-2255  
FACSIMILES: (915) 845-3405  
WEBSITE: NEVAREZLAWFIRM.COM

---

July 7, 2022

*Via USPS Priority Mail:*

Wells Fargo Bank  
Claims Assistance Center  
1530 N. Lee Trevino Dr.  
El Paso, TX 79936

Wells Fargo Bank, N.A.  
c/o Corporation Service Company  
211 E. 7th Street, Suite 620  
Austin, TX 78701-3218

Wells Fargo Bank  
Claims Assistance Center  
ACH/Check Fraud – MAC D1118-02F  
12301 Vance Davis Dr. Floor 02  
Charlotte, NC 28269-7699

*Via USPS Priority Mail:*

Navy Federal Credit Union  
820 Follin Lane SE  
Vienna, VA 22180-4907

Navy Federal Credit Union  
c/o Corporation Service Company  
100 Shockoe Slip Fl 2  
Richmond, VA 23219-4100

Re: Demand Letter to Wells Fargo and Navy Federal Credit Union  
Fraudulent Wire Transfers; Claim # 2022021700810

To Whom It May Concern:

I represent Mr. Oscar M. Garcia - Rodriguez (hereinafter referred to as "Client"). In February 2022, my Client notified Wells Fargo Bank of (3) three fraudulent wire transfers in the total amount of **\$74,880.00**, that were withdrawn from my Client's checking account number XXXXXX0329. The (3) three fraudulent wire transfers are as follows:

- |               |  |             |
|---------------|--|-------------|
| 1. 02/15/2022 | Wire Transfer to Navy Federal Credit Union<br>TRN#220215205991 | \$24,900.00 |
| 2. 02/16/2022 | Wire Transfer to Navy Federal Credit Union<br>TRN#220216084038 | \$24,990.00 |

3. 02/17/2022	Wire Transfer to Navy Federal Credit Union TRN#220217068633	<u>\$24,990.00</u>
---------------	--	--------------------

<b>TOTAL</b>	<b>\$74,880.00</b>
--------------	--------------------

My Client subsequently received a letter from Wells Fargo Bank dated March 22, 2022, stating that a wire recall was initiated by Wells Fargo Bank to attempt recovery of the funds, and that Wells Fargo Bank was unsuccessful due to the Navy Federal Credit Union not having the funds available for return. Said letter then stated that Wells Fargo was unable to reimburse my Client the **\$74,880** and had closed out my Client's Claim.

The foregoing three (3) wire transfers constitutes ACH fraud that would have been avoided had Wells Fargo Bank and the Navy Federal Credit Union exercised ordinary care. As such, Wells Fargo Bank and the Navy Federal Credit Union were in the best position to prevent the fraud, and therefore my Client's losses attributable to said fraud should be borne by Wells Fargo Bank and the Navy Federal Credit Union.

As a result of the three (3) fraudulent wire transfers, my Client has been financially and economically damaged in the amount of **\$74,880**. In addition, my Client had to incur the additional cost of Five Hundred Dollars (**\$500.00**), as attorney's fees and costs necessary to prepare this Demand Letter. My Client's damages thus far are in the amount of approximately **\$75,380.00**.

Therefore, on behalf of my Client, I hereby demand that, within ten (10) days of your receipt of this Demand Letter, you make payment to my Client, in the amount of **\$75,380.00**. Please contact me as soon as possible so that I can provide you with the necessary paperwork, and arrange for immediate payment of the **\$75,380.00** to my Client. You may also contact me to propose an alternate schedule to deliver the payment, within ten (10) days of your receipt of this Demand Letter.

Your failure to comply with the foregoing demands, within ten (10) days of your receipt of this Demand Letter, will result in the filing of a lawsuit, against you, seeking payment for the above-described amount owed to my Client. Under Texas law, in the event I am forced to file a lawsuit to recover my Client's damages, my Client would be entitled to recover his damages, plus interest and attorney's fees and costs, in addition to the exemplary damages resulting from your actions.

Additionally, if you do not pay the above-described amount to my Client, within sixty (60) days from the date of your receipt of this Demand Letter, the lawsuit filed against you will be amended to include an additional count for your violation of the Deceptive Trade Practices-Consumer Protection Act (DTPA), under Texas Business & Commerce Code Section 17.41 *et. seq.* Under the DTPA, my Client would be entitled to treble damages, thus increasing the amount owed by **\$226,140.00**, for a new total of **\$301,520.00**, not including interest, or attorney's fees and costs.

You should understand that I will make every effort to recover my Client's damages, so you must deal with this situation now. You should also understand that, under Texas law,



interest, attorney's fees and costs will accrue through litigation, and until final payment of all damages. Therefore, please contact me immediately on receipt of this Demand Letter to achieve an amicable and expeditious resolution of this matter, and thereby minimize the attorney's fees and costs.

If you have any questions or comments, please do not hesitate to contact me immediately.

Sincerely,

*Michael R. Nevarez*

Michael R. Nevarez, Esq.


[FAQs >](#)

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(<https://reg.usps.com/xsell?app=UspsTools&ref=homepageBanner&appURL=https%3A%2F%2Finformeddelivery.usps.com/box/pages/intro/start.action>)

**Tracking Number:** 9405511108033883117493

[Remove X](#)

Your item was delivered to the front desk, reception area, or mail room at 11:54 am on July 8, 2022 in EL PASO, TX 79936.

**USPS Tracking Plus® Available** ✓

## ✓ Delivered, Front Desk/Reception/Mail Room

July 8, 2022 at 11:54 am  
EL PASO, TX 79936

**Get Updates** ✓

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**Text & Email Updates**




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**Tracking History**



July 8, 2022, 11:54 am

Delivered, Front Desk/Reception/Mail Room  
EL PASO, TX 79936

Your item was delivered to the front desk, reception area, or mail room at 11:54 am on July 8, 2022 in EL PASO, TX 79936.

July 8, 2022, 6:10 am

Out for Delivery  
EL PASO, TX 79936

Feedback

July 8, 2022, 3:57 am

Arrived at Post Office

EL PASO, TX 79925

July 8, 2022, 2:06 am

Arrived at USPS Facility

EL PASO, TX 79925

July 8, 2022, 1:21 am

In Transit to Next Facility

July 8, 2022, 1:01 am

Departed USPS Regional Facility

EL PASO TX DISTRIBUTION CENTER

July 7, 2022, 8:27 pm

Arrived at USPS Regional Facility

EL PASO TX DISTRIBUTION CENTER

July 7, 2022, 7:12 pm

Accepted at USPS Origin Facility

EL PASO, TX 79912

July 7, 2022, 4:25 pm

Shipping Label Created, USPS Awaiting Item

EL PASO, TX 79912

Feedback

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**USPS Tracking Plus®**



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**Product Information**



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**See Less** ^

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## FAQs

[FAQs >](#)**Track Another Package +****Track Packages  
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[Learn More](#)<https://reg.usps.com/xsell?app=UspsTools&ref=homepageBanner&appURL=https%3A%2F%2Finformeddelivery.usps.com/box/pages/intro/start.action>**Tracking Number:** 9405511108033883147223[Remove X](#)

Your item was delivered in or at the mailbox at 10:20 am on July 9, 2022 in AUSTIN, TX 78701.

**USPS Tracking Plus® Available** **Delivered, In/At Mailbox**

July 9, 2022 at 10:20 am  
AUSTIN, TX 78701

**Get Updates** 

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**Text & Email Updates**

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**Tracking History**

July 9, 2022, 10:20 am

Delivered, In/At Mailbox

AUSTIN, TX 78701

Your item was delivered in or at the mailbox at 10:20 am on July 9, 2022 in AUSTIN, TX 78701.

July 9, 2022, 7:35 am

Out for Delivery

AUSTIN, TX 78701

July 9, 2022, 7:24 am

Feedback

Arrived at Post Office  
AUSTIN, TX 78744

July 8, 2022, 11:09 pm  
Arrived at USPS Regional Facility  
AUSTIN TX DISTRIBUTION CENTER

July 8, 2022, 9:14 pm  
Departed USPS Regional Facility  
AUSTIN TX PACKAGE SORTING CENTER

July 8, 2022, 8:30 pm  
Arrived at USPS Regional Facility  
AUSTIN TX PACKAGE SORTING CENTER

July 8, 2022, 7:08 pm  
Arrived at USPS Regional Facility  
AUSTIN TX DISTRIBUTION CENTER

July 8, 2022, 5:57 pm  
In Transit to Next Facility

July 8, 2022, 5:22 pm  
Departed USPS Regional Facility  
SAN ANTONIO TX DISTRIBUTION CENTER

July 8, 2022, 4:09 pm  
Arrived at USPS Regional Facility  
SAN ANTONIO TX DISTRIBUTION CENTER

July 8, 2022, 12:07 pm  
In Transit to Next Facility

July 8, 2022, 8:37 am  
In Transit to Next Facility

July 8, 2022, 4:36 am  
Departed USPS Regional Facility  
EL PASO TX DISTRIBUTION CENTER

July 7, 2022, 8:27 pm

Feedback

July 7, 2022, 7:12 pm  
Accepted at USPS Origin Facility  
EL PASO, TX 79912

July 7, 2022, 4:27 pm  
Shipping Label Created, USPS Awaiting Item  
EL PASO, TX 79912

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**USPS Tracking Plus®**



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**Product Information**



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**See Less** ^

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**FAQs**

Feedback


[FAQs >](#)

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(<https://reg.usps.com/xsell?app=UspsTools&ref=homepageBanner&appURL=https%3A%2F%2Finformeddelivery.usps.com/box/pages/intro/start.action>)

**Tracking Number:** 9405511108033883176537

[Remove X](#)

Your item was delivered to an individual at the address at 2:45 pm on July 11, 2022 in CHARLOTTE, NC 28269.

**USPS Tracking Plus® Available** ✓

## ✓ Delivered, Left with Individual

July 11, 2022 at 2:45 pm  
CHARLOTTE, NC 28269

**Get Updates** ✓

**Text & Email Updates**



**Tracking History**



July 11, 2022, 2:45 pm

Delivered, Left with Individual

CHARLOTTE, NC 28269

Your item was delivered to an individual at the address at 2:45 pm on July 11, 2022 in CHARLOTTE, NC 28269.

July 9, 2022, 2:46 pm

Redelivery Scheduled for Next Business Day

CHARLOTTE, NC 28269

Feedback



July 9, 2022, 10:08 am

No Access to Delivery Location

CHARLOTTE, NC 28269

July 9, 2022, 7:32 am

Out for Delivery

CHARLOTTE, NC 28269

July 9, 2022, 7:21 am

Arrived at Post Office

CHARLOTTE, NC 28269

July 9, 2022, 12:05 am

Arrived at USPS Regional Destination Facility

MID CAROLINA NC PACKAGE SORTING CENTER

July 8, 2022

In Transit to Next Facility

July 7, 2022, 8:27 pm

Arrived at USPS Regional Origin Facility

EL PASO TX DISTRIBUTION CENTER

July 7, 2022, 7:12 pm

Accepted at USPS Origin Facility

EL PASO, TX 79912

July 7, 2022, 4:30 pm

Shipping Label Created, USPS Awaiting Item

EL PASO, TX 79912

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**USPS Tracking Plus®**



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**Product Information**



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**See Less** ^

Feedback

## **Can't find what you're looking for?**

Go to our FAQs section to find answers to your tracking questions.

**FAQs**

Feedback


[FAQs >](#)

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(<https://reg.usps.com/xsell?app=UspsTools&ref=homepageBanner&appURL=https%3A%2F%2Finformeddelivery.usps.com/box/pages/intro/start.action>)

**Tracking Number:** 9405511108033883197006

[Remove X](#)

Your item was delivered to the front desk, reception area, or mail room at 1:30 pm on July 9, 2022 in VIENNA, VA 22180.

**USPS Tracking Plus® Available** ✓

## ✓ Delivered, Front Desk/Reception/Mail Room

July 9, 2022 at 1:30 pm  
VIENNA, VA 22180

**Get Updates** ✓

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**Text & Email Updates**




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**Tracking History**



July 9, 2022, 1:30 pm

Delivered, Front Desk/Reception/Mail Room  
VIENNA, VA 22180

Your item was delivered to the front desk, reception area, or mail room at 1:30 pm on July 9, 2022 in VIENNA, VA 22180.

July 9, 2022, 12:58 pm

Arrived at Post Office  
VIENNA, VA 22180

Feedback

July 9, 2022, 8:02 am

Out for Delivery

VIENNA, VA 22180

July 9, 2022, 6:37 am

Departed USPS Regional Destination Facility

MERRIFIELD VA DISTRIBUTION CENTER

July 9, 2022, 6:04 am

Arrived at USPS Regional Facility

MERRIFIELD VA DISTRIBUTION CENTER

July 9, 2022, 5:27 am

Departed USPS Regional Facility

DULLES VA DISTRIBUTION CENTER

July 9, 2022, 4:12 am

Arrived at USPS Regional Destination Facility

DULLES VA DISTRIBUTION CENTER

July 8, 2022

In Transit to Next Facility

July 7, 2022, 11:15 pm

Departed USPS Regional Facility

EL PASO TX DISTRIBUTION CENTER

July 7, 2022, 8:27 pm

Arrived at USPS Regional Origin Facility

EL PASO TX DISTRIBUTION CENTER

July 7, 2022, 7:12 pm

Accepted at USPS Origin Facility

EL PASO, TX 79912

July 7, 2022, 4:32 pm

Shipping Label Created, USPS Awaiting Item

EL PASO, TX 79912

Feedback

USPS Tracking Plus®



Product Information



See Less 

## Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

**FAQs**

Feedback

[FAQs >](#)

## Track Another Package +

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**Tracking Number:** 9405511108033883126822

[Remove X](#)

Your item was delivered in or at the mailbox at 2:24 pm on July 11, 2022 in RICHMOND, VA 23219.

**USPS Tracking Plus® Available** ✓

## ✓ Delivered, In/At Mailbox

July 11, 2022 at 2:24 pm  
RICHMOND, VA 23219

**Get Updates** ✓

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**Text & Email Updates**



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**Tracking History**



July 11, 2022, 2:24 pm

Delivered, In/At Mailbox

RICHMOND, VA 23219

Your item was delivered in or at the mailbox at 2:24 pm on July 11, 2022 in RICHMOND, VA 23219.

July 9, 2022, 11:01 am

No Access to Delivery Location

RICHMOND, VA 23219

Feedback

July 9, 2022, 8:23 am

Out for Delivery

RICHMOND, VA 23219

July 9, 2022, 8:12 am

Arrived at Post Office

RICHMOND, VA 23232

July 9, 2022, 8:04 am

Arrived at USPS Facility

RICHMOND, VA 23232

July 9, 2022, 7:13 am

Departed USPS Regional Facility

RICHMOND VA DISTRIBUTION CENTER

July 9, 2022, 4:46 am

Arrived at USPS Regional Destination Facility

RICHMOND VA DISTRIBUTION CENTER

July 8, 2022

In Transit to Next Facility

July 7, 2022, 8:27 pm

Arrived at USPS Regional Origin Facility

EL PASO TX DISTRIBUTION CENTER

July 7, 2022, 7:12 pm

Accepted at USPS Origin Facility

EL PASO, TX 79912

July 7, 2022, 4:34 pm

Shipping Label Created, USPS Awaiting Item

EL PASO, TX 79912

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**USPS Tracking Plus®**



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**Product Information**



Feedback

See Less ^

## Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

**FAQs**

Feedback



```
      74,880
        3 x
-----
    224,640 =

      74,880 +
-----
    299,520 =
```

Date: 10/5/2022  
Time: 3:24:04 PM

[www.moffsoft.com](http://www.moffsoft.com)

8WLS  
PO BOX 920574  
EL PASO, TX 79402

CERTIFIED MAIL



7022 0410 0000 7008 2948

U.S. POSTAGE PAID  
FCM LG ENV  
EL PASO, TX  
79902  
NOV 18, 22  
AMOUNT  
**\$6.64**  
R2304E106040-10



94163



RDC 99

WELLS FARGO  
SAN ANTONIO, TX  
0054935

NOV 23 2022

Wells Fargo Bank, N.A.  
420 Montgomery St.  
San Francisco, CA 94163

Express

ORIGIN ID: SATA (210) 624-0146  
JOANN ESQUIVEL  
WELLS FARGO-TOG  
4101 WISEMAN BLVD BLDG 108  
T7408-013 FL 01  
SAN ANTONIO, TX 78251  
UNITED STATES US

SHIP DATE: 23NOV22  
ACTWGT: 0.50 LB  
CAD: 104583435/WSX12600

BILL RECIPIENT

TO SOP / WELLS FARGO  
CORPORATION SERVICE COMPANY  
1201 HAYS ST

TALLAHASSEE FL 32301

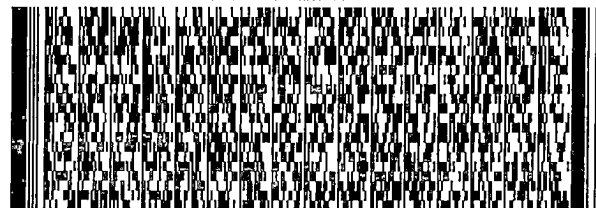
(800) 927-9801

REF: 0139177

INV:

PO: T7408-013

DEPT: ESO



FRI - 25 NOV 10:30A

PRIORITY OVERNIGHT

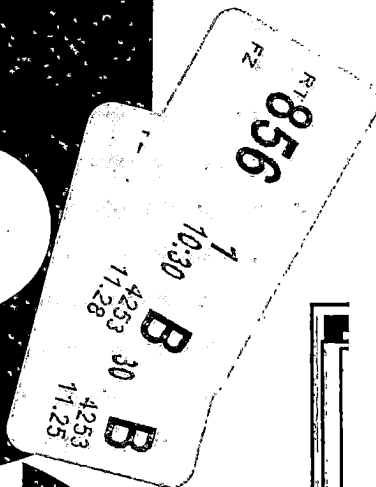
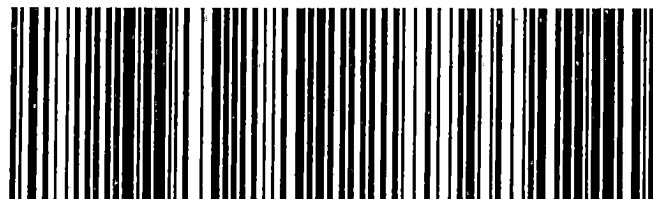
TRK#  
0201

3910 5136 4253

XH TLHA

32301

FL-US TLH



# EXHIBIT 11

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
EL PASO DIVISION**

**OSCAR M. GARCIA-RODRIGUEZ,**

*Plaintiff,*

v.

**WELLS FARGO BANK, N.A. and NAVY  
FEDERAL CREDIT UNION,**

*Defendants.*

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**CIVIL ACTION NO. \_\_\_\_\_**

**LIST OF ALL ATTORNEYS**

<b>Attorney Name, Bar Number, Address &amp; Telephone</b>	<b>Party Represented</b>
Justin Opitz State Bar No. 24051140 Elizabeth Chandler State Bar No. 24097484 McGuireWoods LLP 2000 McKinney Avenue, Suite 1400 Dallas, Texas 75201 Telephone: (214) 932-6400 Facsimile: (214) 932-6499 <a href="mailto:jopitz@mcguirewoods.com">jopitz@mcguirewoods.com</a> <a href="mailto:echandler@mcguirewoods.com">echandler@mcguirewoods.com</a>	Defendant Wells Fargo Bank, N.A.
Michael R. Nevarez <a href="mailto:mnevarez@lawofficesmrn.com">mnevarez@lawofficesmrn.com</a> The Nevarez Law Firm, PC 7362 Remcon Circle El Paso, Texas 79912 Phone: 915-225-2255 Fax: 915-845-3405	Plaintiff Oscar M. Garcia-Rodriguez
unknown	Defendant Navy Federal Credit Union

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Oscar M. Garcia-Rodriguez

(b) County of Residence of First Listed Plaintiff El Paso County, Texas  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Michael R. Nevarez, The Nevarez Law Firm, 7362  
Remcon Circle, El Paso, TX 77912; 915-225-2255

**DEFENDANTS**

Wells Fargo Bank, N.A. and Navy Federal Credit Union

County of Residence of First Listed Defendant Minnehaha County, SD  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Justin Opitz, McGuireWoods LLP, 2000 McKinney, Ste.  
1400, Dallas, TX 75201; 214-932-6400

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                                   |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4            |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input checked="" type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC 1332 and 28 USC 1348

Brief description of cause:

Breach of Contract, monies due on written debt, Money Had and Received, Quantum Meruit, Promissory Estoppel, Conversion, Appropriation by Theft, Fraud by Misrepresentation and/or Inducement, Fraud by Nondisclosure, Negligence and/or Gross Negligence, Breach of Duty of Good Faith and Fair Dealing, Unjust Enrichment, and DTPA

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

**DEMAND \$**  
in excess of \$299,000

CHECK YES only if demanded in complaint:

**JURY DEMAND:** ☐ Yes ☒ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE

12/ 16 /2022

SIGNATURE OF ATTORNEY OF RECORD

/s/ Justin Opitz

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_

AMOUNT \_\_\_\_\_

APPLYING IFP \_\_\_\_\_

JUDGE \_\_\_\_\_

MAG. JUDGE \_\_\_\_\_

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
  - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
DIVISION

Supplement to JS 44 Civil Cover Sheet  
Cases Removed from State District Court

This form must be filed with the Clerk's Office no later than the **first business day** following the filing of the Notice of Removal. Additional sheets may be used as necessary.

The attorney of record for the removing party **MUST** sign this form.

**STATE COURT INFORMATION:**

1. Please identify the court from which the case is being removed; the case number; and the complete style of the case.

2. Was jury demand made in State Court? Yes No

If yes, by which party and on what date?

Party Name Date

**STATE COURT INFORMATION:**

1. List all plaintiffs, defendants, and intervenors still remaining in the case. Also, please list the attorney(s) of record for each party named and include the attorney's firm name, correct mailing address, telephone number, and fax number (including area codes).

2. List all parties that have not been served at the time of the removal, and the reason(s) for non-service.



3. List all parties that have been non-suited, dismissed, or terminated, and the reason(s) for their removal from the case.

**COUNTERCLAIMS, CROSS-CLAIMS, and/or THIRD-PARTY CLAIMS:**

1. List separately each counterclaim, cross-claim, or third-party claim still remaining in the case and designate the nature of each such claim. For each counterclaim, cross-claim, or third-party claim, include all plaintiffs, defendants, and intervenors still remaining in the case. Also, please list the attorney(s) of record for each party named and include the attorney's firm name, correct mailing address, telephone number, and fax number (including area codes).

**VERIFICATION:**

Attorney for Removing Party

Date

Party/Parties

(NOTE: Additional comment space is available on page 3)

**ADDITIONAL COMMENTS (As necessary):**